

VILLAGE OF DOWNERS GROVE
REPORT FOR THE VILLAGE COUNCIL WORKSHOP
FEBRUARY 26, 2008 AGENDA

SUBJECT:	TYPE:	SUBMITTED BY:
Maple and Carpenter Storm Sewer Replacement and St. Joseph Creek Dredging	Resolution Ordinance ✓ Motion Discussion Only	Robin A. Weaver Interim Director of Public Works

SYNOPSIS

A motion is requested to authorize the execution of a contract with V3 Companies of Woodridge, Illinois, in the amount of \$945,800 for the design and construction of the Maple and Carpenter Storm Sewer Replacement and St. Joseph Creek Dredging projects.

STRATEGIC PLAN ALIGNMENT

The Five Year Plan and Goals for 2008-2012 identified *Top Quality Village Infrastructure and Facilities*. A supporting objective of this goal is *Improved Neighborhood Infrastructure Curbs, Gutters, Streets, and Sidewalks*.

FISCAL IMPACT

The FY08 Stormwater Improvement Fund budget provides \$900,000 for these improvements. Staff will strive to achieve cost savings on other projects within the FY08 Stormwater Improvement Fund budget to compensate for the \$45,800 cost in excess of the project budget. An amendment to the FY08 Stormwater Improvement Fund budget may be required at fiscal year end if staff is unable to identify other projects for savings or deletions to cover the additional \$45,800 above budget.

RECOMMENDATION

Approval on the March 4, 2008 consent agenda.

BACKGROUND

The proposed project consists of two components. The first component is the replacement and realignment of an undersized, failing clay storm sewer draining portions of Carpenter Street and Maple Avenue. The second component consists of dredging silt that has accumulated within the 11-foot pipe which conveys St. Joseph Creek through the downtown area. The two individual project components were combined into one larger project because of their physical proximity and because the dredging of the pipe is necessary to construct the riser structure in the Maple and Carpenter storm sewer. The scope of this project was reviewed and approved by the Village Council on January 22, 2008.

This project delivery method was suggested during the presentation of the design scope review with the Stormwater and Floodplain Oversight Committee and with the Village Council. Following further review staff proposes the design-build project delivery method for two primary reasons as noted below.

- **Time Savings:** Using the Village's traditional practice of design, followed by a construction bid, followed by construction, this particular project would be designed in 2008 followed by the permitting and bidding process at the end of the season to allow for construction in 2009. Using the design-build method will allow the permitting process to take place concurrent with the design process. With these time savings measures in place, the project can be designed and constructed in 2008.

- **Cost Savings:** Using the design-build method for this complex, two-component project will allow the persons responsible for construction to participate in the design process. The selected firm will reduce project costs by making on-going adjustments to the plans and construction techniques to improve project constructability, value engineering and project logistics.

Pursuant to Section 2.47 of the Municipal Code, the Village Manager may deem a service “professional” and authorize the solicitation of competitive proposals in lieu of a competitive bid. In January 2008, the Village publicly advertised the need for professional services and accepted letters of interest from qualified engineering firms for work related to the Watershed Infrastructure Improvement Plan. Of the qualified responding firms, three of the companies are able to perform design/build work as these companies include both engineer design and construction divisions. On January 2, 2008, staff solicited design-build proposals from these three firms: Burns & McDonnell; Christopher B. Burke, Engineering; and V3 Companies of Illinois.

Staff recommends award of a contract to V3 Companies of Illinois for its value engineered solution as outlined in its attached proposal. The solution consists of relocating the riser structure from underneath Carpenter Street as originally contemplated to the current area where the 11-foot culvert currently ends, approximately 150 feet west of Carpenter. This change is estimated to save \$725,100. It is precisely this fresh look at the proposed solution which led staff to recommend a design-build approach for these projects.

V3 has included the full \$100,000 budgeted to dredge the St. Joseph Creek culvert as the riser structure is constructed.

ATTACHMENTS

Proposal/contract forms
CIP sheets

AIA[®] Document A105[™] – 1993

Standard Form of Agreement Between Owner and Contractor for a Small Project where the Basis of Payment is a STIPULATED SUM

This **AGREEMENT** is made: January 31, 2008
(Date)

BETWEEN the Owner:

Village of Downers Grove
5101 Walnut Avenue
Downers Grove, IL 60515
630-434-5460

and the Contractor

V3 Construction Group Ltd.
7325 Janes Avenue
Woodridge, IL 60517
630-724-9200

for the following Project:

Maple Avenue & Carpenter Street Storm Sewer Replacement
Permitting / Construction
Downers Grove, IL

The Architect is:

K-Plus Engineering
1979 North Mill Street
Suite 101
Naperville, IL 60563
630-420-1700

The Owner and Contractor agree as follows.

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.

ARTICLE 1 THE CONTRACT DOCUMENTS

The Contractor shall complete the Work described in the Contract Documents for the project. The Contract Documents consist of:

- .1 this Agreement signed by the Owner and Contractor;
- .2 AIA Document A205, General Conditions of the Contract for Construction of a Small Project, current edition;
- .3 the Drawings and Specifications prepared by the Architect, dated November 21, 2007, and enumerated as follows:

Drawings:

Number	Title	Date
1	Cover Sheet	11/21/2007
2	General Notes	11/21/2007
3	Control	11/21/2007
4	Demolition	11/21/2007
5	Demolition	11/21/2007
6	Storm Sewer Plan & Profile	11/21/2007
7	Storm Sewer Plan & Profile	11/21/2007
8	Storm Sewer Plan & Profile	11/21/2007
9	Storm Sewer Plan & Profile	11/21/2007
10	Grading & Site Plan	11/21/2007
11	Standard Details	11/21/2007

Specifications:

Section	Title	Pages
Not Applicable		

- .4 addenda prepared by the Architect as follows:

Number	Date	Pages
Not Applicable		

- .5 written change orders or orders for minor changes in the Work issued after execution of this Agreement; and
- .6 other documents, if any, identified as follows:

Exhibit A

- V3 Proposal to the Village of Downers Grove dated 01/10/2008
 - Item III: Floodway/Floodplain & Wetland/Riparian Permitting
 - Item IV-A: Construction Approach / Value Engineered Solution: Relocation of Special Structure
 - Item IV-C: Pipe Cleaning

Exhibit B

- Village of Downers Grove – Request for Proposal (RFP)
 - Section II – Terms and Conditions

ARTICLE 2 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION DATE

The date of commencement shall be the date of this Agreement unless otherwise indicated below. The Contractor shall substantially complete the Work not later than December 01, 2008, subject to adjustment by Change Order. (Insert the date or number of calendar days after the date of commencement.)

ARTICLE 3 CONTRACT SUM

§ 3.1 Subject to additions and deductions by Change Order, the Contract Sum is:

Not to Exceed: Nine Hundred Forty-five Thousand Eight Hundred Dollars and Zero Cents (\$ 945,800.00)

Init.

§ 3.2 For purposes of payment, the Contract Sum includes the following values related to portions of the Work:

Portion of Work	Value (\$ 0.00)
Engineering/Permitting	\$ 32,300.00
Erosion Control & Site Demolition	\$110,500.00
Culvert & Headwall Construction	\$348,400.00
Storm Sewer Installation	\$220,800.00
Paving & Restoration	\$133,800.00
Pipe Cleaning	\$100,000.00 (Allowance)

§ 3.3 The Contract Sum shall include all items and services necessary for the proper execution and completion of the Work.

ARTICLE 4 PAYMENT

See Exhibit B

(Paragraphs deleted)

ARTICLE 5 INSURANCE

See Exhibit B

(Paragraphs deleted)

(Table deleted)

(Paragraphs deleted)

(Table deleted)

(Paragraphs deleted)

ARTICLE 6 OTHER TERMS AND CONDITIONS

(Insert any other terms or conditions below.)

See Exhibit B

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

(If required by law, insert cancellation period, disclosures or other warning statements above the signatures.)

OWNER (Signature)

(Printed name and title)



CONTRACTOR (Signature)

Michael Famiglietti, President

(Printed name and title)

LICENSE NO.:

JURISDICTION:

AIA[®] Document A205[™] – 1993

General Conditions of the Contract for Construction of a Small Project

for the following PROJECT:

(Name and location or address):

Maple Avenue & Carpenter Street Storm Sewer Replacement
Downers Grove, IL

THE OWNER:

(Name and address):

Village of Downers Grove
5101 Walnut Avenue
Downers Grove, IL 60515

THE ARCHITECT:

(Name and address):

K-Plus Engineering
1979 North Mill Street
Suite 101
Naperville, IL 60563

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.

ARTICLE 1 GENERAL PROVISIONS

§ 1.1 THE CONTRACT

The Contract represents the entire and integrated agreement between the parties and supersedes prior negotiations, representations or agreements, either written or oral. The Contract may be amended or modified only by a written modification.

§ 1.2 THE WORK

The term "Work" means the construction and services required by the Contract Documents, and includes all other labor, materials, equipment and services provided by the Contractor to fulfill the Contractor's obligations.

§ 1.3 INTENT

The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all.

§ 1.4

OWNERSHIP AND USE OF ARCHITECT'S DRAWINGS, SPECIFICATIONS AND OTHER DOCUMENTS

Documents prepared by the Architect are instruments of the Architect's service for use solely with respect to this project. The Architect shall retain all common law, statutory and other reserved rights, including the copyright. They are not to be used by the Contractor or any Subcontractor, Sub-subcontractor or material or equipment supplier for other projects or for additions to this project outside the scope of the Work without the specific written consent of the Owner and Architect.

ARTICLE 2 OWNER

§ 2.1 INFORMATION AND SERVICES REQUIRED OF THE OWNER

§ 2.1.1 If requested by the Contractor, the Owner shall furnish and pay for a survey and a legal description of the site.

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User Notes:

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§ 2.1.2 Except for permits and fees which are the responsibility of the Contractor under the Contract Documents, the Owner shall obtain and pay for other necessary approvals, easements, assessments and charges.

§ 2.2 OWNER'S RIGHT TO STOP THE WORK

If the Contractor fails to correct Work which is not in accordance with the Contract Documents, the Owner may direct the Contractor in writing to stop the Work until the correction is made.

§ 2.3 OWNER'S RIGHT TO CARRY OUT THE WORK

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a seven day period after receipt of written notice from the Owner to correct such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies, correct such deficiencies. In such case, a Change Order shall be issued deducting the cost of correction from payments due the Contractor.

§ 2.4 OWNER'S RIGHT TO PERFORM CONSTRUCTION AND TO AWARD SEPARATE CONTRACTS

§ 2.4.1 The Owner reserves the right to perform construction or operations related to the project with the Owner's own forces, and to award separate contracts in connection with other portions of the project.

§ 2.4.2 The Contractor shall coordinate and cooperate with separate contractors employed by the Owner.

§ 2.4.3 Costs caused by delays or by improperly timed activities or defective construction shall be borne by the party responsible therefor.

ARTICLE 3 CONTRACTOR

§ 3.1 EXECUTION OF THE CONTRACT

Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become familiar with local conditions under which the Work is to be performed and correlated personal observations with requirements of the Contract Documents.

§ 3.2 REVIEW OF CONTRACT DOCUMENTS AND FIELD CONDITIONS BY CONTRACTOR

The Contractor shall carefully study and compare the Contract Documents with each other and with information furnished by the Owner. Before commencing activities, the Contractor shall: (1) take field measurements and verify field conditions; (2) carefully compare this and other information known to the Contractor with the Contract Documents; and (3) promptly report errors, inconsistencies or omissions discovered to the Architect.

§ 3.3 SUPERVISION AND CONSTRUCTION PROCEDURES

§ 3.3.1 The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for and have control over construction means, methods, techniques, sequences and procedures, and for coordinating all portions of the Work.

§ 3.3.2 The Contractor, as soon as practicable after award of the Contract, shall furnish in writing to the Owner through the Architect the names of subcontractors or suppliers for each portion of the Work. The Architect will promptly reply to the Contractor in writing if the Owner or the Architect, after due investigation, has reasonable objection to the subcontractors or suppliers listed.

§ 3.4 LABOR AND MATERIALS

§ 3.4.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work.

§ 3.4.2 The Contractor shall deliver, handle, store and install materials in accordance with manufacturers' instructions.

§ 3.5 WARRANTY

The Contractor warrants to the Owner and Architect that: (1) materials and equipment furnished under the Contract will be new and of good quality unless otherwise required or permitted by the Contract Documents; (2) the Work

will be free from defects not inherent in the quality required or permitted; and (3) the Work will conform to the requirements of the Contract Documents.

§ 3.6 TAXES

The Contractor shall pay sales, consumer, use and similar taxes that are legally required when the Contract is executed.

§ 3.7 PERMITS, FEES AND NOTICES

§ 3.7.1 The Contractor shall obtain and pay for the building permit and other permits and governmental fees, licenses and inspections necessary for proper execution and completion of the Work.

§ 3.7.2 The Contractor shall comply with and give notices required by agencies having jurisdiction over the Work. If the Contractor performs Work knowing it to be contrary to laws, statutes, ordinances, building codes, and rules and regulations without notice to the Architect and Owner, the Contractor shall assume full responsibility for such Work and shall bear the attributable costs. The Contractor shall promptly notify the Architect in writing of any known inconsistencies in the Contract Documents with such governmental laws, rules and regulations.

§ 3.8 SUBMITTALS

The Contractor shall promptly review, approve in writing and submit to the Architect Shop Drawings, Product Data, Samples and similar submittals required by the Contract Documents. Shop Drawings, Product Data, Samples and similar submittals are not Contract Documents.

§ 3.9 USE OF SITE

The Contractor shall confine operations at the site to areas permitted by law, ordinances, permits, the Contract Documents and the Owner.

§ 3.10 CUTTING AND PATCHING

The Contractor shall be responsible for cutting, fitting or patching required to complete the Work or to make its parts fit together properly.

§ 3.11 CLEANING UP

The Contractor shall keep the premises and surrounding area free from accumulation of debris and trash related to the Work.

§ 3.12 INDEMNIFICATION

See Exhibit B

ARTICLE 4 ARCHITECT'S ADMINISTRATION OF THE CONTRACT

§ 4.1 The Architect will provide administration of the Contract as described in the Contract Documents. The Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents.

§ 4.2 The Architect will visit the site at intervals appropriate to the stage of construction to become generally familiar with the progress and quality of the Work.

§ 4.3 The Architect will not have control over or charge of and will not be responsible for construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, since these are solely the Contractor's responsibility. The Architect will not be responsible for the Contractor's failure to carry out the Work in accordance with the Contract Documents.

§ 4.4 Based on the Architect's observations and evaluations of the Contractor's Applications for Payment, the Architect will review and certify the amounts due the Contractor.

§ 4.5 The Architect will have authority to reject Work that does not conform to the Contract Documents.

§ 4.6 The Architect will promptly review and approve or take appropriate action upon Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents.

§ 4.7 The Architect will promptly interpret and decide matters concerning performance under and requirements of the Contract Documents on written request of either the Owner or Contractor.

§ 4.8 Interpretations and decisions of the Architect will be consistent with the intent of and reasonably inferable from the Contract Documents and will be in writing or in the form of drawings. When making such interpretations and decisions, the Architect will endeavor to secure faithful performance by both Owner and Contractor, will not show partiality to either and will not be liable for results of interpretations or decisions so rendered in good faith.

§ 4.9 The Architect's duties, responsibilities and limits of authority as described in the Contract Documents will not be changed without written consent of the Owner, Contractor and Architect. Consent shall not be unreasonably withheld.

ARTICLE 5 CHANGES IN THE WORK

§ 5.1 After execution of the Contract, changes in the Work may be accomplished by Change Order or by order for a minor change in the Work. The Owner, without invalidating the Contract, may order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions, the Contract Sum and Contract Time being adjusted accordingly.

§ 5.2 A Change Order shall be a written order to the Contractor signed by the Owner and Architect to change the Work, Contract Sum or Contract Time.

§ 5.3 The Architect will have authority to order minor changes in the Work not involving changes in the Contract Sum or the Contract Time and not inconsistent with the intent of the Contract Documents. Such changes shall be written orders and shall be binding on the Owner and Contractor. The Contractor shall carry out such written orders promptly.

§ 5.4 If concealed or unknown physical conditions are encountered at the site that differ materially from those indicated in the Contract Documents or from those conditions ordinarily found to exist, the Contract Sum and Contract Time shall be subject to equitable adjustment.

ARTICLE 6 TIME

§ 6.1 Time limits stated in the Contract Documents are of the essence of the Contract.

§ 6.2 If the Contractor is delayed at any time in progress of the Work by changes ordered in the Work, or by labor disputes, fire, unusual delay in deliveries, unavoidable casualties or other causes beyond the Contractor's control, the Contract Time shall be extended by Change Order for such reasonable time as the Architect may determine.

ARTICLE 7 PAYMENTS AND COMPLETION

§ 7.1 CONTRACT SUM

The Contract Sum stated in the Agreement, including authorized adjustments, is the total amount payable by the Owner to the Contractor for performance of the Work under the Contract Documents.

§ 7.2 APPLICATIONS FOR PAYMENT

§ 7.2.1 At least ten days before the date established for each progress payment, the Contractor shall submit to the Architect an itemized Application for Payment for operations completed in accordance with the values stated in the Agreement. Such application shall be supported by such data substantiating the Contractor's right to payment as the Owner or Architect may reasonably require and reflecting retainage if provided for elsewhere in the Contract Documents.

§ 7.2.2 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment, all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor's knowledge, information and belief, be free and clear of liens, claims, security interests or other encumbrances adverse to the Owner's interests.

§ 7.3 CERTIFICATES FOR PAYMENT

See *Exhibit B*

§ 7.4 PROGRESS PAYMENTS

See *Exhibit B*

(Paragraphs deleted)

§ 7.5 SUBSTANTIAL COMPLETION

§ 7.5.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so the Owner can occupy or utilize the Work for its intended use.

§ 7.5.2 When the Work or designated portion thereof is substantially complete, the Architect will prepare a Certificate of Substantial Completion which shall establish the date of Substantial Completion, shall establish the responsibilities of the Owner and Contractor, and shall fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

§ 7.6 FINAL COMPLETION AND FINAL PAYMENT

§ 7.6.1 Upon receipt of a final Application for Payment, the Architect will inspect the Work. When the Architect finds the Work acceptable and the Contract fully performed, the Architect will promptly issue a final Certificate for Payment.

§ 7.6.2 Final payment shall not become due until the Contractor submits to the Architect releases and waivers of liens, and data establishing payment or satisfaction of obligations, such as receipts, claims, security interests or encumbrances arising out of the Contract.

§ 7.6.3 Acceptance of final payment by the Contractor, a Subcontractor or material supplier shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment.

ARTICLE 8 PROTECTION OF PERSONS AND PROPERTY

§ 8.1 SAFETY PRECAUTIONS AND PROGRAMS

The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs, including all those required by law in connection with performance of the Contract. The Contractor shall promptly remedy damage and loss to property caused in whole or in part by the Contractor, or by anyone for whose acts the Contractor may be liable.

ARTICLE 9 CORRECTION OF WORK

§ 9.1 The Contractor shall promptly correct Work rejected by the Architect as failing to conform to the requirements of the Contract Documents. The Contractor shall bear the cost of correcting such rejected Work.

§ 9.2 In addition to the Contractor's other obligations including warranties under the Contract, the Contractor shall, for a period of one year after Substantial Completion, correct work not conforming to the requirements of the Contract Documents.

§ 9.3 If the Contractor fails to correct nonconforming Work within a reasonable time, the Owner may correct it and the Contractor shall reimburse the Owner for the cost of correction.

ARTICLE 10 MISCELLANEOUS PROVISIONS

§ 10.1 ASSIGNMENT OF CONTRACT

Neither party to the Contract shall assign the Contract as a whole without written consent of the other.

§ 10.2 TESTS AND INSPECTIONS

§ 10.2.1 Tests, inspections and approvals of portions of the Work required by the Contract Documents or by laws, ordinances, rules, regulations or orders of public authorities having jurisdiction shall be made at an appropriate time.

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§ 10.2.2 If the Architect requires additional testing, the Contractor shall perform these tests.

§ 10.2.3 The Owner shall pay for tests except for testing Work found to be defective for which the Contractor shall pay.

§ 10.3 GOVERNING LAW

The Contract shall be governed by the law of the place where the project is located.

ARTICLE 11 TERMINATION OF THE CONTRACT

§ 11.1 TERMINATION BY THE CONTRACTOR

If the Owner fails to make payment when due or substantially breaches any other obligation of this Contract, following seven days' written notice to the Owner, the Contractor may terminate the Contract and recover from the Owner payment for Work executed.

§ 11.2 TERMINATION BY THE OWNER

§ 11.2.1 The Owner may terminate the Contract if the Contractor:

- .1 persistently or repeatedly refuses or fails to supply enough properly skilled workers or proper materials;
- .2 fails to make payment to Subcontractors for materials or labor in accordance with the respective agreements between the Contractor and the Subcontractors;
- .3 persistently disregards laws, ordinances, or rules, regulations or orders of a public authority having jurisdiction; or
- .4 is otherwise guilty of substantial breach of a provision of the Contract Documents.

§ 11.2.2 When any of the above reasons exist, the Owner, after consultation with the Architect, may without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven days' written notice, terminate employment of the Contractor and may:

- .1 take possession of the site and of all materials thereon owned by the Contractor;
- .2 finish the Work by whatever reasonable method the Owner may deem expedient.

§ 11.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 11.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

§ 11.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, such excess shall be paid to the Contractor. If such costs exceed the unpaid balance, the Contractor shall pay the difference to the Owner. This obligation for payment shall survive termination of the Contract.

EXHIBIT A

V3 Proposal to the Village of Downers Grove

January 10, 2008

Mr. Michael D. Millette, P.E.
Assist. Director of Public Works
Village of Downers Grove
5101 Walnut Avenue
Downers Grove, IL 60515

**Re: Permitting / Construction Proposal
Maple Avenue & Carpenter Street Storm Sewer Replacement
Downers Grove, Illinois**

Dear Mr. Millette:

On behalf of V3 Companies, we are pleased to submit this proposal for permitting and construction services for the above-referenced project. This specifically refers to V3 holding and administering the trade contracts and self performing portions of the construction as well as finalizing the design and permitting for the project. This proposal outlines both the scope of services and associated fees for the permitting and construction of the project. If this proposal is acceptable, either V3 contract documents will be forwarded for execution or a Client contract may be executed.

I. PROJECT UNDERSTANDING

The basic scope of this project involves both engineering and construction. The engineering work is expected to incorporate obtaining the required permits along with any completing any final adjustments to the existing design to aid in constructability, value engineering, and project logistics.

It is our understanding the design intent of the project is as follows:

1. Improve storm water drainage on Carpenter Street in order to minimize flooding
2. Provide access to the existing 132" Diameter Culvert for cleaning operations
3. Provide an oil separator baffle in the 132" diameter line
4. Improve aesthetic appearance of storm outflow pool
5. Improve safety at the outflow of the culvert

In addition to the work on the engineering drawings, it is desired to remove the built up sediment within the existing 132" diameter RCP culvert pipe. This work is hereafter referred to as the PROJECT. The drawings prepared by K-Plus Engineering titled Maple Ave. & Carpenter Street Storm Sewer Replacement and dated 6-25-2007 with the latest revision date of 11-21-07 were used in preparation of this proposal.



II. V3 COMPANIES BENEFITS

- A. **V3 Staff** – Senior Project Management will be assigned to this project to function in both the field supervision and office management capacity. Our personnel have over 15 years of site development and construction experience and will be responsible for the overall project coordination and liaison with the Client representative.
- B. **Coordination of Design and Construction** - V3 Companies performs both engineering and construction contracting services “in-house”. This interface provides immediate communication affords the ability for both the engineer and contractor to fully understand the design intent and implement the solutions accordingly.
- C. **Resources** - V3 services include civil site design, construction/contracting, surveying, environmental assessment and remediation, ecological and wetland design, transportation and structural engineering, municipal consulting, and construction/program management. These resources may be made available to each project immediately without the need for outsourcing.

III. FLOODWAY/FLOODPLAIN & WETLAND/RIPARIAN PERMITTING

Based on the FEMA Flood Insurance Rate Map (FIRM) and the DuPage County Regulatory Flood Map (RFM), there is regulatory mapped floodway and floodplain located immediately adjacent to the downstream outlet of the existing 132” diameter culvert (just west of Carpenter Street). A review of the Flood Insurance Study (FIS) indicates that a steady state hydraulic model exists for St. Joseph Creek but it does not appear to include the 132” culvert (the limit of detailed study is just downstream of the culvert outlet). Based on the RFM and the Watershed Model Reference Map issued by DuPage County, it is our understanding that St. Joseph Creek (including the culvert) has been modeled in FEQ.

Since there is mapped floodway located immediately adjacent to the culvert outlet (the RFM appears to also map the culvert as floodway), the proposed improvements will involve construction in the floodway, which requires a Floodway Construction Permit from IDNR-OWR. For these types of projects, IDNR-OWR typically delegates the floodway permitting to DuPage County. Although the Village doesn’t need to submit floodplain permitting to DuPage County (since the Village is a full waiver community), the Village will need to permit the floodway impacts through the County. A stormwater permit will be required from Downers Grove for the floodplain impacts.



V3 will obtain the regulatory model (or models) that include the 132” culvert and incorporate the proposed modifications to show that the proposed improvements do not adversely impact adjacent property owners. V3 shall prepare the stormwater permit documentation, which includes modeling, calculations, and supporting documentation associated with the proposed floodway impacts to the County for approval. Additionally, V3 will provide the necessary floodplain fill / compensatory storage calculations associated with any proposed floodplain modifications to the Village for approval. Due to the maintenance nature of this project, it assumed that stormwater management is not required (Tab 2 of the stormwater submittal under separate transmittal).

V3 recommends that the floodway/floodplain modeling and permitting begin as soon as possible since the permitting process through the County can take several months, especially since FEQ modeling is involved.

For the purpose of this proposal, it is assumed that some regulatory modeling exists for the 132” culvert. If existing hydraulic modeling of the culvert has not been performed, does not include sufficient detail, or is not available, the scope of services related to floodway/floodplain modeling will need to be revised and will likely result in a change order to the contract.

In addition to the floodway/floodplain impacts, V3 anticipates that proposed improvements will also involve riparian impacts (wetland impacts are not anticipated) to the area located immediately downstream of the outlet. As such, it is anticipated that the following services will be provided:

1. **Wetland Determination and Riparian Assessment.** A botanist and a soil scientist from our staff will conduct a field investigation to determine if any wetlands are present in the project area. The determination will be conducted in accordance with the 1987 *Corps of Engineers Wetlands Delineation Manual*. An evaluation of the riparian environment will also be conducted.
2. **Wetland and Riparian Report.** A wetland determination and riparian assessment report will be provided with the results of the field investigation. If no wetlands are identified on the site, we will include appropriate documentation and state that no further study is required. The report will document the existing riparian vegetation and functions.
3. **Wetland (Tab 4) and Riparian (Tab 5) Submittals.** The Wetland and Riparian Submittals will be prepared. Based on a review of existing conditions, no wetlands are likely present along the stream and wetland mitigation will not be required. The Wetland Submittal will primarily consist of the Wetland Report. Riparian vegetation will be impacted and riparian mitigation will be required based on impacts to riparian functions. The riparian mitigation design will be included as part of the submittal. Required agency coordination and meetings will be included.

This proposal also includes the implementation of the approved riparian mitigation plan, which may include grading, soil preparation, seeding / plugging, erosion control blank installation, and trees / shrubs installation.

Part III Cost..... \$32,300.00



IV. CONSTRUCTION APPROACH

In assembling the construction pricing for this project, it became clear that the installation costs for the project as designed would significantly exceed the proposed budget. In order to meet the financial goals of the project, and still maintain the design intent, we are quoting an alternate value engineered solution. In order to ensure accuracy of price comparisons, we have also quoted installation of the culvert system as depicted in the drawings prepared by K-Plus Engineering.

A. Value Engineered Solution: Relocation of Special Structure

This alternative shifts the location of the proposed special structure to end of the existing 132" RCP culvert. This eliminates the proposed 10.0' x 7.0' box culvert and all of the associated shoring, sheeting, and bracing and the possible utility relocations necessary for its installation. As part of this solution, the proposed storm sewer along Carpenter Street would be brought to a new manhole at the original location of the proposed special structure and connected to the existing 132" RCP culvert. Another benefit of this solution is that it facilitates a more cost effective and simpler approach should a future extension of the 132" culvert be required.

Part IV-A Cost..... \$813,500.00

B. Base Engineering Plans

The project could be constructed as indicated on the K-Plus engineering plans; however the costs have exceeded the proposed budget. The area of concern is the installation of the box culvert and special structure. This installation either requires an open cut of the existing grade or a hand mining application.

Open Cut – Due to the proximity of existing residences to the construction area sheet piling would be required to support the existing grade of the adjacent properties. There is also concern over the existing utilities being in conflict with the required work. In addition, the installation of sheet pile raises concern over its affect on the adjacent properties with possible damage due to vibration during installation.



Hand Mining – This operation provides for less intrusive construction activity for the adjacent properties. The 10.0’ x 7.0’ box culvert would be placed at a reasonably “flat” slope and the headwall would be constructed as designed with the necessary modifications. This option was determined to be not cost effective.

* For purposes of this proposal, the pricing for the open cut method is included with qualifications outlined below.

Part IV-B Cost..... \$1,538,600.00

C. Pipe Cleaning

Our anticipated approach for the removal of built up sediment within the existing 132” diameter culvert includes the following:

1. Installation of a temporary dam/wier within the pipe to stop water flow.
2. Internal by-pass pumping system downstream within the pipe.
3. Forced air for workman safety.
4. Use of equipment modified with propane fuel systems to limit exhaust fumes and transport the sediment to an access point.
5. Vacuum truck for removal of sediment.
6. Placement of sediment in green space in the vicinity of the construction area. The sediment will be left in place with the expectation of future seeding when the material is sufficiently dried out.

Because the actual volume of existing silt cannot be calculated at this time we have included a T&M schedule for tracking costs against the provided budget.

Part IV-C Allowance..... \$100,000.00

Project qualifications, exclusions and limitations:

1. The price provided for the open cut proposal includes a \$300,000.00 allowance for the installation of temporary sheet piling due to a lack of geotechnical information.
2. Temporary utility relocations or repair due to conflicts with proposed utility installation are not provided for in this proposal.
3. Rock excavation is not provided for in this proposal.
4. Proposed installation of the concrete headwall is per the drawings provided by K-Plus Engineering. We have not included a structural review and approval of the design.
5. Undercuts or allowances for poor soil conditions.



Project qualifications, exclusions and limitations (cont'd):

- 6. We have included an allowance for standard erosion control measures.
- 7. All proposed construction to be completed in 2008.

If the terms of this proposal are found to be satisfactory, please sign in the space provided below and return one copy to our office. Upon receipt, contract documents will be generated and forwarded to you for execution. Alternatively, please forward your contract documents for our review and execution. We appreciate the opportunity to present this proposal and look forward to working with you on this project.

Sincerely,
V3 Companies of Illinois

Michael Famiglietti, P.E.
Division Director – Construction

Derrick Martin, P.E., CFM, CPESC
Water Resources Group Manager

Authorization for Contract Documents:

Signature: _____

Printed Name: _____

Date: _____

EXHIBIT B

Village of Downers Grove – Request for Proposal (RFP) Section II – Terms and Conditions

9. VILLAGE ORDINANCES

- 9.1 The successful proposer will strictly comply with all ordinances of the Village of Downers Grove and laws of the State of Illinois.

10. USE OF VILLAGE'S NAME

- 10.1 The proposer is specifically denied the right of using in any form or medium the name of the Village for public advertising unless express permission is granted by the Village.

11. SPECIAL HANDLING

- 11.1 Prior to delivery of any product which is caustic, corrosive, flammable or dangerous to handle, the Proposer will provide written directions as to methods of handling such products, as well as the antidote or neutralizing material required for its first aid before delivery. Proposer shall also notify the Village and provide material safety data sheets for all substances used in connection with this contract which are defined as toxic under the Illinois Toxic Substances Disclosure to Employees Act.

12. INDEMNITY AND HOLD HARMLESS AGREEMENT

- 12.1 To the fullest extent permitted by law, the Proposer shall indemnify, keep and save harmless the Village and its agents, officers, and employees, against all injuries, deaths, losses, damages, claims, suits, liabilities, judgments, costs and expenses, which may arise directly or indirectly from any negligence or from the reckless or willful misconduct of the Proposer, its employees, or its subcontractors, and the Proposer, its employees, or its subcontractors, and the Proposer 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 in any such action, the Proposer shall, at its own expense, satisfy and discharge the same. This Agreement shall not be construed as requiring the Proposer to indemnify the Village for its own negligence. The Proposer shall indemnify, keep and save harmless the Village only where a loss was caused by the negligent, willful or reckless acts or omissions of the Proposer, its employees, or its Subcontractors.

13. NONDISCRIMINATION

- 13.1 Proposer shall, as a party to a public contract:
- (a) Refrain from unlawful discrimination in employment and undertake affirmative action to assure equality of employment opportunity and eliminate the effects of past discrimination;
 - (b) By submission of this proposal, the Proposer certifies that he is an "equal opportunity employer" as defined by Section 2000(e) of Chapter 21, Title 42, U.S.

Code Annotated and Executive Orders #11246 and #11375, which are incorporated herein by reference. The Equal Opportunity clause, Section 6.1 of the Rules and Regulations of the Department of Human Rights of the State of Illinois, is a material part of any contract awarded on the basis of this proposal.

- 13.2 It is unlawful to discriminate on the basis of race, color, sex, national origin, ancestry, age, marital status, physical or mental handicap or unfavorable discharge for military service. Proposer shall comply with standards set forth in Title VII of the Civil Rights Act of 1964, 42 U.S.C. Secs. 2000 et seq., The Human Rights Act of the State of Illinois, 775 ILCS 5/1-101 et. seq., and The Americans With Disabilities Act, 42 U.S.C. Secs. 12101 et. seq.

14. SEXUAL HARASSMENT POLICY

- 14.1 The proposer, as a party to a public contract, shall have a written sexual harassment policy that:

- 14.1.1 Notes the illegality of sexual harassment;
- 14.1.2 Sets forth the State law definition of sexual harassment;
- 14.1.3 Describes sexual harassment utilizing examples;
- 14.1.4 Describes the Proposer's internal complaint process including penalties;
- 14.1.5 Describes the legal recourse, investigative and complaint process available through the Illinois Department of Human Rights and the Human Rights Commission and how to contact these entities; and
- 14.1.6 Describes the protection against retaliation afforded under the Illinois Human Rights Act.

15. EQUAL EMPLOYMENT OPPORTUNITY

- 15.1 In the event of the Proposer's non-compliance with the provisions of this Equal Employment Opportunity Clause, the Illinois Human Rights Act or the Rules and Regulations of the Illinois Department of Human Rights ("Department"), the Proposer may be declared ineligible for future contracts or subcontracts with the State of Illinois or any of its political subdivisions or municipal corporations, and the contract may be canceled or voided in whole or in part, and such other sanctions or penalties may be imposed or remedies invoked as provided by statute or regulation. During the performance of this contract, the Proposer agrees as follows:

- 15.1.1 That it will not discriminate against any employee or applicant for employment because of race, color, religion, sex, marital status, national origin or ancestry, age, physical or mental handicap unrelated to ability, sexual orientation, sexual identity or an unfavorable discharge from military service; and further that it will examine all job classifications to determine if minority persons or women are underutilized and will take appropriate affirmative action to rectify any such underutilization.

- 15.1.2 That, if it hires additional employees in order to perform this contract or any

portion thereof, it will determine the availability (in accordance with the Department's Rules and Regulations) of minorities and women in the area(s) from which it may reasonably recruit and it will hire for each job classification for which employees are hired in such a way that minorities and women are not underutilized.

- 15.1.3 That, in all solicitations or advertisements for employees placed by it or on its behalf, it will state that all applicants will be afforded equal opportunity without discrimination because of race, color, religion, sex, marital status, national origin or ancestry, age, physical or mental handicap unrelated to ability, or an unfavorable discharge from military services.
- 15.1.4 That it will send to each labor organization or representative of workers with which it has or is bound by a collective bargaining or other agreement or understanding, a notice advising such labor organization or representative of the Proposer's obligations under the Illinois Human Rights Act and the Department's Rules and Regulations. If any such labor organization or representative fails or refuses to cooperate with the Proposer in its efforts to comply with such Act and Rules and Regulations, the Proposer will promptly so notify the Department and the contracting agency and will recruit employees from other sources when necessary to fulfill its obligations thereunder.
- 15.1.5 That it will submit reports as required by the Department's Rules and Regulations, 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 the Department's Rules and Regulations.
- 15.1.6 That it will permit access to all relevant books, records, accounts and work sites by personnel of the contracting agency and the Department for purpose of investigation to ascertain compliance with the Illinois Human Rights Act and the Department's Rules and Regulations.
- 15.1.7 That it will include verbatim or by reference the provisions of this clause in every subcontract it awards under which any portion of the contract obligations are undertaken or assumed, so that such provisions will be binding upon such subcontractor. In the same manner as with other provisions of this contract, the Proposer 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 Proposer will not utilize any subcontractor declared by the Illinois Human Rights Commission to be ineligible for contracts or subcontracts with the State of Illinois or any of its political subdivision or municipal corporations.

16. DRUG FREE WORK PLACE

Proposer, as a party to a public contract, certifies and agrees that it will provide a drug free workplace by:

- 16.1 Publishing a statement: (1) Notifying employees that the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance, including cannabis, is prohibited in the Village's or proposer's workplace. (2) Specifying the actions that will be taken against employees for violations of such prohibition. (3) Notifying the employee that, as a condition of employment on such contract or grant, the employee will: (A) abide by the terms of the statement; and (B) notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction.
- 16.2 Establishing a drug free awareness program to inform employee's about: (1) the dangers of drug abuse in the workplace; (2) the Village's or proposer's policy of maintaining a drug free workplace; (3) any available drug counseling, rehabilitation and employee assistance programs; (4) the penalties that may be imposed upon employees for drug violations.
- 16.3 Providing a copy of the statement required above to each employee engaged in the performance of the contract or grant and to post the statement in a prominent place in the workplace.
- 16.4 Notifying the contracting or granting agency within ten (10) days after receiving notice of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction from an employee or otherwise receiving actual notice of such conviction.
- 16.5 Imposing a sanction on, or requiring the satisfactory participation in a drug abuse assistance or rehabilitation program by any employee who is so convicted as required by section 5 of the Drug Free Workplace Act.
- 16.6 Assisting employees in selecting a course of action in the event drug counseling, treatment and rehabilitation is required and indicating that a trained referral team is in place.
- 16.7 Making a good faith effort to continue to maintain a drug free workplace through implementation of the Drug Free Workplace Act.

17. PREVAILING WAGE ACT

- 17.1 Proposer agrees to comply with the Illinois Prevailing Wage Act, 820 ILCS 130/1 *et seq.*, for all work completed under this contract. Proposer agrees to pay the prevailing wage and require that all of its subcontractors pay prevailing wage to any laborers, workers or mechanics who perform work pursuant to this contract or related subcontract. For applicable rates, go to the State of Illinois – Department of Labor website and use the most current DuPage County rate.

- 17.2 Proposer and each subcontractor shall keep or cause to be kept an accurate record of names, occupations and actual wages paid to each laborer, workman and mechanic employed by the Proposer in connection with the contract. This record shall be open to inspection at all reasonable hours by any representative of the Village or the Illinois Department of labor and must be preserved for four (4) years following completion of the contract.
- 17.3 In the event this is a contract for a “fixed public works” project, as defined in 820 ILCS 130/2, Proposer agrees to post at the job site in an easily accessible place, the prevailing wages for each craft or type of worker or mechanic needed to execute the contract or work to be performed.
- 17.4 In the event this is an Illinois public works project as defined under the Prevailing Wage Act, 820 ILCS 130/2, any and all contractors and subcontractors must submit certified payroll records to the Village on a monthly basis. **WITHOUT THIS PAPERWORK, NO INVOICE SHALL BE PAID BY THE VILLAGE.** Contractors and subcontractors must also submit a statement affirming that the records are true and accurate, that the wages paid to each worker are not less than the prevailing rate, and that the contractor and subcontractor are aware that filing false records is a Class B misdemeanor. The records must include the name, address, telephone number, social security number, job classification, hours of work, hourly rate, and start and end time of work each day for every worker employed on the public work. The Village reserves the right to check the pay stubs of the workers on the job. The Village further cautions that payment for any services rendered pursuant to this contract may be predicated upon receipt of said records.
- 17.5 In the event that this is a construction project where Motor Fuel tax monies or state grant monies are used in the construction, maintenance and extension of municipal streets, traffic control signals, street lighting systems, storm sewers, pedestrian subways or overhead crossings, sidewalks and off-street parking facilities, and the like, the Village will require an Apprenticeship and Training Certification, attached after the Proposer’s Certification.
- 17.6 Any bond furnished as security for performance shall include a provision as will guarantee faithful performance of the Illinois Prevailing Wage Act, 820 ILCS 130/1 et seq.
- 18. INSURANCE REQUIREMENTS**
- 18.1 Prior to starting the work, Contractor and any Subcontractors shall procure, maintain and pay for such insurance as will protect against claims for bodily injury of death, or for damage to property, including loss of use, which may arise out of operations by the Contractor or Subcontractor or any Sub-Sub Contractor or by anyone employed by any of them, or by anyone for whose acts any of them may be liable. Such insurance shall not be less than the greater of coverages and limits of liability specified below or any coverages and limits of liability specified in the Contract Documents or coverages and limits

required by law unless otherwise agreed to by the Village.

Workers Compensation	\$500,000	Statutory
Employers Liability	\$1,000,000	Each Accident
	\$1,000,000	Disease Policy Limit
	\$1,000,000	Disease Each Employee
Comprehensive General Liability	\$2,000,000	Each Occurrence
	\$2,000,000	Aggregate
		<i>(Applicable on a Per Project Basis)</i>
Commercial Automobile Liability	\$1,000,000	Each Accident
Professional Errors & Omissions (pursuant to section .9 below)	\$2,000,000	Each Claim
	\$2,000,000	Annual Aggregate
Umbrella Liability	\$ 5,000,000	

- 18.2 Commercial General Liability Insurance required under this paragraph shall be written on an occurrence form and shall include coverage for Products/Completed Operations, Personal Injury with Employment Exclusion (if any) deleted, Blanket XCU and Blanket Contractual Liability insurance applicable to defense and indemnity obligations and other contractual indemnity assumed under the Contract Documents. The limit must be on a "Per Project Basis"
- 18.3 Comprehensive Automobile Liability Insurance required under this paragraph shall include coverage for all owned, hired and non-owned automobiles.
- 18.4 Workers Compensation coverage shall include a waiver of subrogation against the Village.
- 18.5 Comprehensive General Liability, Employers Liability and Commercial Automobile Liability Insurance may be arranged under single policies for full minimum limits required, or by a combination of underlying policies with the balance provided by Umbrella and/or Excess Liability policies.
- 18.6 Contractor and all Subcontractors shall have their respective Comprehensive General Liability (including products/completed operations coverage), Employers Liability, Commercial Automobile Liability, and Umbrella/Excess Liability policies endorsed to add the "Village of Downers Grove, officers, officials, employees and volunteers" as

“additional insureds” with respect to liability arising out of operations performed; claims for bodily injury or death brought against Village by any Contractor or Subcontractor employees, or the employees of Subcontractor’s subcontractors of any tier, however caused, related to the performance of operations under the Contract Documents. Such insurance afforded to the Village shall be endorsed to provide that the insurance provided under each policy shall be *Primary and Non-Contributory*.

- 18.7 Contractor and all Subcontractors shall maintain in effect all insurance coverages required by the Contract Documents at their sole expense and with insurance carriers licensed to do business in the State of Illinois and having a current A. M. Best rating of no less than A- VIII. In the event that the Contractor or any Subcontractor fails to procure or maintain any insured required by the Contract Documents, the Village may, at its option, purchase such coverage and deduct the cost thereof from any monies due to the Contractor or Subcontractor, or withhold funds in an amount sufficient to protect the Village, or terminate this Agreement pursuant to its terms.
- 18.8 All insurance policies shall contain a provision that coverages and limits afforded hereunder shall not be canceled, materially changed, non-renewed or restrictive modifications added, without thirty (30) days prior written notice to the Village. Renewal certificates shall be provided to the Village not less than five (5) prior to the expiration date of any of the required policies. All Certificates of Insurance shall be in a form acceptable to Village and shall provide satisfactory evidence of compliance with all insurance requirements. The Village shall not be obligated to review such certificates or other evidence of insurance, or to advise Contractor or Subcontractor of any deficiencies in such documents, and receipt thereof shall not relieve the Contractor or Subcontractor from, nor be deemed a waiver the right to enforce the terms of the obligations hereunder. The Village shall have the right to examine any policy required and evidenced on the Certificate of Insurance.
- 18.9 Only in the event that the Work under the Contract Documents includes design, consultation, or any other professional services, Contractor or the Subcontractor shall procure, maintain, and pay for Professional Errors and Omissions insurance with limits of not less than \$2,000,000 per claim and \$2,000,000 annual aggregate. If such insurance is written on a claim made basis, the retrospective date shall be prior to the start of the Work under the Contract Documents. Contractor and all Subcontractors agree to maintain such coverage for three (3) years after final acceptance of the Project by the Village or such longer period as the Contract Documents may require. Renewal policies during this period shall maintain the same retroactive date.
- 18.10 Any deductibles or self-insured retentions shall be the sole responsibility of the Insured. At the option of the Village, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the Village, its officers, officials, employees and volunteers; or the Proposer shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

19. COPYRIGHT/PATENT INFRINGEMENT

19.1 The Proposer agrees to indemnify, defend, and hold harmless the Village against any suit, claim, or proceeding brought against the Village for alleged use of any equipment, systems, or services provided by the Proposer that constitutes a misuse of any proprietary or trade secret information or an infringement of any patent or copyright.

20. COMPLIANCE WITH OSHA STANDARDS

20.1 Equipment supplied to the Village must comply with all requirements and standards as specified by the Occupational Safety and Health Act. All guards and protectors as well as appropriate markings will be in place before delivery. Items not meeting any OSHA specifications will be refused.

21. CERCLA INDEMNIFICATION

21.1 In the event this is a contract that has environment aspects, the Awarded Proposer shall, to the maximum extent permitted by law, indemnify, defend, and hold harmless the Village, its officers, employees, agents, and attorneys from and against any and all liability, including without limitation, costs of response, removal, remediation, investigation, property damage, personal injury, damage to natural resources, health assessments, health settlements, attorneys' fees, and other related transaction costs arising under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, 42 U.S.C.A. Sec. 9601, *et seq.*, as amended, and all other applicable statutes, regulations, ordinances, and under common law for any release or threatened release of the waste material collected by the Awarded Proposer, both before and after its disposal.

22. BUY AMERICA

22.1 The Contractor agrees to comply with 49 U.S.C.5323(j), the Federal Transportation Administration's (FTA) Buy America regulations at 49 C.F.R. Part 661, and any amendments thereto, and any implementing guidance issued by the FTA, with respect to this contract, when financed by Federal funds (through a grant agreement or cooperative agreement).

22.2 As a condition of responsiveness, the Contractor agrees to submit with its Bid submission, an executed Buy America Certificate, attached hereto.

23. CAMPAIGN DISCLOSURE

23.1 Any contractor, proposer, bidder or vendor who responds by submitting a bid or proposal to the Village of Downers Grove shall be required to submit with its bid submission, an executed Campaign Disclosure Certificate, attached hereto.

23.2 The Campaign Disclosure Certificate is required pursuant to the Village of Downers Grove Council Policy on Ethical Standards and is applicable to those campaign contributions made to any member of the Village Council.

23.3 Said Campaign Disclosure Certificate requires any individual or entity bidding to disclose campaign contributions, as defined in Section 9-1.4 of the Election Code (10

ILCS 5/9-1.4), made to current members of the Village Council within the five (5) year period preceding the date of the bid or proposal release.

- 23.4 By signing the bid documents, contractor/proposer/bidder/vendor agrees to refrain from making any campaign contributions as defined in Section 9-1.4 of the Election Code (10 ILCS 5/9-1.4) to any Village Council member and any challengers seeking to serve as a member of the Downers Grove Village Council.

24. SUBLETTING OF CONTRACT

- 24.1 No contract awarded by the Village shall be assigned or any part sub-contracted without the written consent of the Village Manager. In no case shall such consent relieve the Awarded Proposer from their obligation or change the terms of the contract.

25. TERM OF CONTRACT

- 25.1 This contract may be extended no more than twice for subsequent annual periods (two annual extensions) by mutual agreement of both parties, providing such agreement complies with Village purchasing policies and the availability of funds. However, if this contract is not one that is subject to extension, such information will be available in the detailed specifications or special conditions section, supra.

26. TERMINATION OF CONTRACT

- 26.1 The Village reserves the right to terminate the whole or any part of this contract, upon written notice to the Awarded Proposer, for any reason and/or in the event that sufficient funds to complete the contract are not appropriated by the Village.
- 26.2 The Village further reserves the right to terminate the whole or any part of this contract, upon ten (10) days' written notice to the Awarded Proposer, in the event of default by the Awarded Proposer. Default is defined as failure of the Awarded Proposer to perform any of the provisions of this contract or failure to make sufficient progress so as to endanger performance of this contract in accordance with its terms. In the event that the Awarded Proposer fails to cure the default upon notice, and the Village declares default and termination, the Village may procure, upon such terms and in such manner as the Village may deem appropriate, supplies or services similar to those so terminated. The Awarded Proposer shall be liable for any excess costs for such similar supplies or services unless acceptable evidence is submitted to the Village that failure to perform the contract was due to causes beyond the control and without the fault or negligence of the Awarded Proposer. Any such excess costs incurred by the Village may be set-off against any monies due and owing by the Village to the Awarded Proposer.

27. BILLING & PAYMENT PROCEDURES

- 27.1 Payment will be made upon receipt of an invoice referencing Village purchase order number. Once an invoice and receipt of materials or service have been verified, the invoice will be processed for payment in accordance with the Village payment schedule. The Village will comply with the Local Government Prompt Payment Act, 50 ILCS 505/1 et seq., in that any bill approved for payment must be paid or the payment issued to

the Proposer within 60 days of receipt of a proper bill or invoice. If payment is not issued to the Proposer within this 60 day period, an interest penalty of 1.0% of any amount approved and unpaid shall be added for each month or fraction thereof after the end of this 60 day period, until final payment is made.

- 27.2 The Village shall review in a timely manner each bill or invoice after its receipt. If the Village determines that the bill or invoice contains a defect making it unable to process the payment request, the Village shall notify the Proposer requesting payment as soon as possible after discovering the defect pursuant to rules promulgated under 50 ILCS 505/1 et seq. The notice shall identify the defect and any additional information necessary to correct the defect.
- 27.3 If this contract is for work defined as a “fixed public work” project under the Illinois Prevailing Wage Act, 820 ILCS 130/2, any contractor or subcontractor is required to submit certified payroll records along with the invoice. No invoice shall be paid without said records.
- 27.4 Please send all invoices to the attention of Village of Downers Grove, Accounts Payable, 801 Burlington, Downers Grove, IL 60515.

28. RELATIONSHIP BETWEEN THE PROPOSER AND THE VILLAGE

- 28.1 The relationship between the Village and the Proposer is that of a buyer and seller of professional services and it is understood that the parties have not entered into any joint venture or partnership with the other.

29. STANDARD OF CARE

- 29.1. Services performed by Proposer under this Agreement will be conducted in a manner consistent with that level of care and skill ordinarily exercised by members of the profession currently practicing in the same locality under similar conditions. No other representations express or implied, and no warranty or guarantee is included or intended in this Agreement, or in any report, opinions, and documents or otherwise.
- 29.2 If the Proposer fails to meet the foregoing standard, Proposer will perform at its own cost, and without reimbursement from the Village, the professional services necessary to correct errors and omissions caused by Proposer’s failure to comply with the above standard and reported to Proposer within one (1) year from the completion of Proposer’s services for the Project.
- 29.3 For Professional Service Agreements (i.e. Engineer, Consultant): Project site visits by Proposer during construction or equipment installation or the furnishing of Project representatives shall not make Proposer responsible for: (i) constructions means, methods, techniques, sequences or procedures; (ii) for construction safety precautions or programs; or (iii) for any construction contactor(s’) failure to perform its work in accordance with contract documents.

30. GOVERNING LAW

30.1 This Agreement will be governed by and construed in accordance with the laws of the State of Illinois without regard for the conflict of laws provisions. Venue is proper only in the County of DuPage and the Northern District of Illinois.

31. SUCCESSORS AND ASSIGNS

31.1 The terms of this Agreement will be binding upon and inure to the benefit of the parties and their respective successors and assigns; provided, however, that neither party will assign this Agreement in whole or in part without the prior written approval of the other. The Proposer will provide a list of key staff, titles, responsibilities, and contact information to include all expected sub Proposers.

32. WAIVER OF CONTRACT BREACH

32.1 The waiver by one party of any breach of this Agreement or the failure of one party to enforce at any time, or for any period of time, any of the provisions hereof will be limited to the particular instance and will not operate or be deemed to waive any future breaches of this Agreement and will not be construed to be a waiver of any provision except for the particular instance.

33. AMENDMENT

33.1 This Agreement will not be subject to amendment unless made in writing and signed by all parties.

34. CHANGE ORDERS

34.1 The contract price is a "not-to-exceed" cost. At any time additional work is necessary or requested, and the not-to-exceed price is increased thereby, any change, addition or price increase must be agreed to in writing by all parties. The appropriate authorizing signature for the Village is the Village Manager.

35. SEVERABILITY OF INVALID PROVISIONS

35.1 If any provisions of this Agreement are held to contravene or be invalid under the laws of any state, country or jurisdiction, contravention will not invalidate the entire Agreement, but it will be construed as if not containing the invalid provision and the rights or obligations of the parties will be construed and enforced accordingly.

36. NOTICE

36.1 Any notice will be in writing and will be deemed to be effectively served when deposited in the mail with sufficient first class postage affixed, and addressed to the party at the party's place of business. Notices shall be addressed to the Village as follows:

**Village Manager
Village of Downers Grove
801 Burlington Ave.
Downers Grove, IL 60515**

And to the Proposer as designated in the Contract Form.

2008-2012 CAPITAL PROJECT SHEET

Proj. #: DR-008

Project Description: Maple and Carpenter Storm Sewer Replacement

Project Lead: Jonathan C. Hall

Dept.: Public Works

Fund: 243

Program: 343

Project Type: New Project/Expansion Changed
 Replacement Maintenance

Priority Setting Factors:	H/S/W	Maint.	Expan.	New	Low	Medium	High	OVERALL
Rating:		X				X		2

BREAKDOWN OF PROJECT COST AND FUNDING SOURCES

Cost Summary	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	Future Yrs	TOTAL
Professional Services	50,000						50,000
Land Acquisition							-
Infrastructure Improvements	750,000						750,000
Building Improvements							-
Machinery and Equipment							-
Other/Miscellaneous							-
TOTAL COST	800,000	-	-	-	-	-	800,000

Funding Source(s)	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	Future Yrs	TOTAL
243-Stormwater Improvement Fund ▼	800,000						800,000
▼							-
▼							-
▼							-
TOTAL FUNDING SOURCES	800,000	-	-	-	-	-	800,000

1. Briefly Describe and provide justification for this Capital Project Request.

This project involves the replacement and realignment of an undersized, failing, clay storm sewer draining portions of Carpenter Street and Maple Avenue. This work will be combined with the St. Joseph Creek Dredging (Mackie to Carpenter) project (DR-010).

2. Describe the project status and completed work.

Design work completed in 2008.

3. Describe any anticipated grants related to the project.

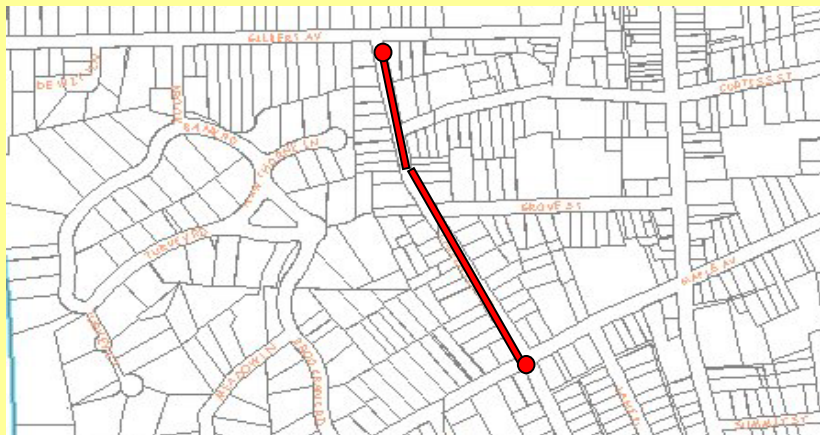
None

4. What impact will the project have on annual operating expenses? Please quantify and describe.

	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	Future Yrs	TOTAL
Projected Operating Expenses	-	-	-	-	-	-	-

Completion will help prevent street and structure flooding due to storm sewer failure and insufficient capacity.

Map and/or pictures of Project/Project Area:



2008-2012 CAPITAL PROJECT SHEET

Proj. #: DR-010

Project Description: St. Joseph Creek Dredging - Mackie to Carpenter

Project Lead: Jonathan C. Hall

Dept.: Public Works

Fund: 243

Program: 343

Project Type: New Project/Expansion Changed
 Replacement Maintenance

Priority Setting Factors:	H/S/W	Maint.	Expan.	New	Low	Medium	High	OVERALL
Rating:		X			X			2

BREAKDOWN OF PROJECT COST AND FUNDING SOURCES

Cost Summary	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	Future Yrs	TOTAL
Professional Services							-
Land Acquisition							-
Infrastructure Improvements	100,000						100,000
Building Improvements							-
Machinery and Equipment							-
Other/Miscellaneous							-
TOTAL COST	100,000	-	-	-	-	-	100,000
Funding Source(s)	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	Future Yrs	TOTAL
243-Stormwater Improvement Fund ▼	100,000						100,000
▼							-
▼							-
▼							-
TOTAL FUNDING SOURCES	100,000	-	-	-	-	-	100,000

1. Briefly Describe and provide justification for this Capital Project Request.

This project involves the dredging of four feet of silt (estimated) that has accumulated within the 11-foot pipe which conveys St. Joseph Creek through the Village's downtown area. At an approximate length of 1,200 feet, nearly 1,000 cubic yards of silt is estimated for removal. This project would restore the designed conveyance capacity and help prevent future flooding problems.

2. Describe the project status and completed work.

This project will be combined with the Maple & Carpenter Storm Sewer Replacement project (DR-008).

3. Describe any anticipated grants related to the project.

None

4. What impact will the project have on annual operating expenses? Please quantify and describe.

	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	Future Yrs	TOTAL
Projected Operating Expenses	-	-	-	-	-	-	-

Map and/or pictures of Project/Project Area: