

RESOLUTION NO. _____

**A RESOLUTION AUTHORIZING EXECUTION OF AN
AGREEMENT BETWEEN THE VILLAGE OF DOWNERS GROVE
AND ENGINEERING RESOURCE ASSOCIATES, INC.**

BE IT RESOLVED by the Village Council of the Village of Downers Grove, DuPage County, Illinois,
as follows:

1. That the form and substance of a certain Agreement (the “Agreement”), between the Village of Downers Grove (the “Village”) and Engineering Resource Associates, Inc. (the “Consultant”), for stormwater review professional services, as set forth in the form of the Agreement submitted to this meeting with the recommendation of the Village Manager, is hereby approved.

2. That the Village Manager and Village Clerk are hereby respectively authorized and directed for and on behalf of the Village to execute, attest, seal and deliver the Agreement, substantially in the form approved in the foregoing paragraph of this Resolution, together with such changes as the Manager shall deem necessary.

3. That the proper officials, agents and employees of the Village are hereby authorized and directed to take such further action as they may deem necessary or appropriate to perform all obligations and commitments of the Village in accordance with the provisions of the Agreement.

4. That all resolutions or parts of resolutions in conflict with the provisions of this Resolution are hereby repealed.

5. That this Resolution shall be in full force and effect from and after its passage as provided by law.

Mayor

Passed:

Attest: _____
Village Clerk

AGREEMENT

This Agreement is made this ____ day of _____, 2008 by and between Engineering Resource Associates, Inc. ("Consultant") and the Village of Downers Grove, Illinois, an Illinois municipal corporation with offices at 801 Burlington Avenue, Downers Grove, Illinois 60515, ("Village").

WHEREAS, the Village wishes to retain the services of the Consultant to provide on-call technical review services for stormwater and wetland issues associated with development projects within the Village; and

WHEREAS, the Consultant is willing to perform these services for compensation and in accordance with the terms and conditions described in this Agreement.

NOW, THEREFORE, in consideration of the mutual benefits that will result to the parties in carrying out the terms of this Agreement, it is agreed as follows:

I. Scope of Services

See attached Proposal incorporated herein by reference as Exhibit A.

II. Term of Agreement

- A. The term of this Agreement shall be one (1) year from the date first written above with two optional one year renewals in conformance with the Village Purchasing Policy or until its termination pursuant to Section IV (F).

III. Compensation

A. Basic Fees:

Attached hereto and herein incorporated are the Scope of Service/ Compensation Arrangements (**Exhibit A**), Standard Charges for Professional Services (**Exhibit B**) and Stormwater Review Compensation Structure dated August 14, 2008 (**Exhibit C**). All fees shall be based upon the structure set forth in Exhibits A, B, and C.

B. Consultant Invoices:

The Consultant shall prepare invoices that contain a reference number, the billing period, the classifications and/or names of staff, numbers of hours billed to the project (with clear itemization for hours spent), all reimbursable expenses and a total reimbursable amount for the billing period including receipts therefor, amounts billed to date, and amounts received to date.

C. Prompt Payment Act:

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 Consultant within 60 days of receipt of a proper bill or invoice. If payment is not issued to the Consultant 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.

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 Consultant 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.

IV. General Terms and Conditions

A. Relationship Between the Consultant and the Village

The relationship between the Village and the Consultant 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.

B. Equal Employment Opportunity

In the event of the Consultant'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 Consultant 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 Consultant agrees as follows:

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, 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.
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.
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 service.
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 consultant'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 consultant in its efforts to comply with such Act and Rules and Regulations, the consultant will promptly so notify the Department and the contracting agency and will recruit employees from other sources when necessary to fulfill its obligations thereunder.

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.
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 purposes of investigation to ascertain compliance with the Illinois Human Rights Act and the Department's Rules and Regulations.
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 subconsultant. In the same manner as with other provisions of this contract, the consultant will be liable for compliance with applicable provisions of this clause by such subconsultants; and further it will promptly notify the contracting agency and the Department in the event any subconsultant fails or refuses to comply therewith. In addition, the Consultant will not utilize any subconsultant 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.

C. Sexual Harassment

Consultant, as a party to a public contract, has a project specific written sexual harassment policy amended so that it:

1. Notes the illegality of sexual harassment;
2. Sets forth the State law definition of sexual harassment;
3. Describes sexual harassment utilizing examples;
4. Describes the Consultant or supplier's internal complaint process including penalties;
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;
6. Describes the protection against retaliation afforded under the Illinois Human Rights Act.

D. Drug Free Work Place

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

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 grantee's or Consultant'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: abide by the terms of the statement; and 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.
2. Establishing a drug free awareness program to inform employees about: (1) the dangers of drug abuse in the workplace; (2) the grantee's or consultant'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.

3. Providing a copy of the statement required by subparagraph (a) to each employee engaged in the performance of the contract or grant and to post the statement in a prominent place in the workplace.
4. Notifying the contracting or granting agency within ten (10) days after receiving notice under part (B) of paragraph (3) of subsection (a) above from an employee or otherwise receiving actual notice of such conviction.
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.
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.
7. Making a good faith effort to continue to maintain a drug free workplace through implementation of the Drug Free Workplace Act.

E. Discrimination

Consultant, its employees and subconsultants, agree not to commit unlawful discrimination and agree to comply with applicable provisions of the Illinois Human Rights Act, the Public Works Employment Discrimination Act, the U.S. Civil Rights Act and Section 504 of the Federal Rehabilitation Act, and rules applicable to each. The equal opportunity clause of the Department of Human Rights rules is specifically incorporated herein.

The Americans with Disabilities Act (42 U.S.C. 12101) and the regulations thereunder (28 CFR 35.130)(ADA) prohibit discrimination against persons with disabilities by the State, whether directly or through contractual arrangements, in the provision of any aid, benefit or service. As a condition of receiving this contract, the undersigned vendor certifies that services, programs and activities provided under this contract are and will continue to be in compliance with the ADA.

V. Insurance and Indemnification of the Village

- A. The Consultant shall be required to obtain, from a company or companies lawfully authorized to do business in the jurisdiction in which the project is located, such general liability insurance as will protect the Consultant from claims, at a minimum set forth below which may arise out of or result from the Consultant's operations under this agreement and for which the Consultant may legally liable:
 1. Claims under workers compensation, disability benefit and other similar employee benefit acts which are applicable to the operation to be performed;
 2. Claims for damages because of bodily injury, occupational sickness or disease, or death of the Consultant's employees;
 3. Claims for damages because of bodily injury, sickness or disease, or death of any person other than the Consultant's employees;
 4. Claims for damages insured by the usual personal injury liability coverage which are sustained: (1) by a person as a result of an offense directly or indirectly related to employment of such person by the Consultant, or (2) by another person;
 5. Claims for damages, other than to the work itself, because of injury to or destruction of

- tangible property, including loss of use resulting there from;
6. Claims for damages because of bodily injury, death of a person or property damage arising out of ownership, maintenance or use of a motor vehicle:
 7. Claims for damages as a result of professional or any other type of negligent action by the Consultant or failure to properly perform services under the scope of the agreement between the Consultant and the Village.

- B.** The Consultant shall demonstrate having such insurance coverage for a minimum of \$2 million for professional liability (errors and omissions).
- C.** As evidence of said coverages, Consultant shall provide the Village with certificates of insurance naming the Village of Downers Grove as an additional insured and include a provision for cancellation only upon at least 30 days prior notice to the Village. In addition, the Consultant shall indemnify and hold harmless the Village and its officers, employees and agents from any and all liability, losses or damages the Village may suffer as a result of claims, demands, suits, actions or proceedings of any kind or nature in any way resulting from or arising out of negligent action on the part of the Consultant or any sub-consultant to the Consultant under the Consultant's agreement with the Village.

D. Termination

In the event of the Consultant's nonperformance, breach of the terms of the Agreement, or for any other reason, the Agreement may be canceled, in whole or in part, upon the Village's written notice to the Consultant. The Village will pay the Consultant's costs actually incurred as of the date of receipt of notice of default. Upon termination, the Consultant will deliver all documents and products of whatever kind, and their reproducible originals related to the project, which have been produced to the date of the notice of default.

E. Governing Law

This Agreement will be governed by and construed in accordance with the laws of the State of Illinois. Venue is proper only in the County of DuPage.

F. Successors and Assigns

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.

G. Waiver of Contract Breach

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.

H. Amendment

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

I. Indemnification

The Consultant will indemnify and hold harmless the Village and its officers, employees and agents from any and all liability, losses or damages the Village may suffer as a result of claims, demands, suits, actions or proceedings of any kind or nature in any way resulting from or arising out of negligent action on the part of the Consultant or any sub-consultants under this Agreement. This indemnification does not apply to liability caused by the Village's own negligence.

J. Severability of Invalid Provisions

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.

K. Assignment

The Consultant will not assign or subcontract any portion of this Agreement, unless the Village agrees to the assignment or subcontract in writing. Any assignment will not relieve the Consultant from its obligations or change the terms of this Agreement.

The Consultant will provide a list of key staff, titles, responsibilities, and contact information to include all expected sub consultants.

L. Campaign Disclosure Certificate

The Consultant shall comply with the Campaign Disclosure Certificate attached hereto and incorporated herein by reference as Exhibit B.

M. Notice

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 designated representatives of both parties as follows:

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

**Engineering Resource Associates, Inc.
3S701 West Avenue
Suite 150
Warrenville, IL 60555**

IN WITNESS WHEREOF, the Parties have executed this Agreement on the date indicated above.

Engineering Resource Associates, Inc.

Village of Downers Grove

By: _____

By: _____

Title: _____

Title: Village Manager

Date: _____

Date: _____



SCOPE OF SERVICES

Stormwater Runoff and Detention – Plan and Permit Review Services

ERA will review plan submittals for compliance with overall drainage, stormwater detention and conveyance regulations according to the Village of Downers Grove established ordinances. The following tasks may be required to be completed to determine compliance:

- Review of development proposals for compliance with the adopted ordinance and coordination with county, state and federal agencies as it pertains to technical requirements.
- Review permits and administer the requirements of the Downers Grove Stormwater and Flood Plain Ordinance and the Stormwater Permit Guide.

Key technical and procedural stormwater and environmental issues that come up during typical reviews include but are not limited to:

- Identification of relevant permit requirements
- Coordination with other Village department reviews and a collaboration of issues and concerns
- Initial cursory review of submittal completeness
- Overall protection of public health and human safety
- Identification of Localized Poor Drainage Areas (LPDA) or other Special Management Area
- Overland flow paths and depressional storage areas
- Review and verification of wetland delineations and potential impacts
- Logical placement of detention facilities
- Infiltration opportunities
- Review of water quality best management practices involving native plant material to ensure proper design and implementation of successful BMPs.
- Management of off-site flows
- Adequate downstream capacity
- Long-term maintenance and monitoring measures





SCOPE OF SERVICES

- Hydrologic and hydraulic modeling methodology and accuracy of input
- Easement and bonding provisions
- Erosion and sediment control measures
- SWPPP and NPDES Phase II requirements
- Conformance with the Tree Protection requirements.
- Consideration of information submitted by the public
- Deficiencies during site inspection and enforcement of control measures
- Application of measures recommended in the recently completed Watershed Plans
- Appropriate treatment and management of Special Flood Hazard Areas (SFHA)
- Overall review of proposed utilities, geometrics and materials.

Miscellaneous/Supplemental Services

In addition to the review services described above, from time to time ERA may be called upon to perform other stormwater and environmental consulting services. Typical tasks would include:

- Conduct Pre-applications meetings for a project proposed in the Village
- Attend interdepartmental coordination meetings
- Review drainage complaints and perform field visits
- Review proposed plans located within near the Village or in the FPA
- Coordinate/perform site visit
- Perform site visits to verify as-built drawings
- Attend pre-application meetings for a multi-jurisdictional project
- Review of existing Village Ordinance with respect to the recently implemented DuPage County Best Management Practice requirements
- Work with Village staff to enhance review checklists
- Review Stormwater Permit Guide document
- Formalize system of tracking and reporting of review progress
- Be available to meet individually with residence
- Attend public meetings, if necessary to listen to and respond to drainage issues..

Procedures





SCOPE OF SERVICES

Elements anticipated to be incorporated into the review process include:

- Perform an initial cursory review with the applicant's permit submittal package to make sure the necessary items are included.
- Perform a detailed review of the construction drawings and supporting documents.
- Perform follow up reviews based upon the previous review comments and the revised construction documents.
- Coordinate the review with other departments within the Village to ensure consistency and prevent contradictory comments
- Establish anticipated review turn around times (refer to attached flow chart)
- Review as-built drawings for conformance to approved plans
- Perform site visit of completed project prior to issuing occupancy.

Documentation

ERA will document the process from the initial pick up of the review to the time the project is complete. Our documentation and filing system will provide review status, track review times and provide post-construction document retrieval. ERA will utilize a web-based system to provide easy access for the Village staff.

Development Categories

The level or extent of review typically corresponds to the type of development and several site conditions that influence the complexity of the review. A list of anticipated permit categories that increase in the degree of complexity is as follows:

- A. Single parcel
 - i. Residential addition, pool or garage
 - ii. Residential home site
 - iii. Commercial, Industrial, Institutional site
- B. Multiple lot subdivision
 - i. Residential, Commercial, Industrial, Institutional subdivision
 - ii. Mixed use and PUD
- C. Site Conditions
 - i. Detention





SCOPE OF SERVICES

- ii. Special Management Area
- iii. Public Improvements
- iv. Regulatory Wetlands
- v. FEMA mapped revisions

Compensation Arrangements

The Village is the collector of the fee from the applicant/developer. Since every site varies in size and complexity, and plans can vary in the level of completeness, the establishment of a flat rate for every project is not necessarily appropriate unless it is based upon the a variety of elements. The categories above outline the typical levels used to define the permit fee.

Flat rate amounts are provided under the categories that involve a basic single lot residential review. Flat rate reviews are limited to two additional site reviews and one additional review of the as-built plan. Under other categories, the degree of diversity on the project results in an hourly rate arrangement for the review time. Attached please find a summary of the review compensation structure associated with the various categories.

Once the Village and ERA has established a review history of between six and nine months, ERA will work with the Village staff to determine an appropriate sliding scale fee for some or all of the remaining categories initially compensated for as an hourly rate. It is anticipated that the permit review amount would be determined at the time of the initial application submittal. With our entire site reviews, the hours are tracked on an individual basis.

Initially, ERA will apply the hourly rates to categories described as hourly rate. Should the Village choose to convert to a fixed rate billing system for these categories, ERA will work with the Village to develop a corresponding structure for compensation. Hourly rate increases are reflected by the average salary increase for the individuals within the staff categories.





**VILLAGE OF DOWNERS GROVE
STORMWATER REVIEW SERVICES**

**STANDARD CHARGES FOR PROFESSIONAL SERVICES
JANUARY 1, 2008 THROUGH DECEMBER 31, 2008**

<i>Staff Category</i>	<i>Hourly Billing Rate</i>
Professional Engineer VI	\$192.50
Professional Engineer V	\$181.00
Professional Engineer IV	\$152.00
Professional Engineer III	\$117.00
Professional Engineer II	\$104.00
Professional Engineer I	\$88.00
Staff Engineer III	\$87.00
Staff Engineer II	\$74.00
Staff Engineer I	\$73.00
Engineering Intern II	\$33.00
Engineering Intern I	\$32.00
Engineering Technician V	\$102.00
Engineering Technician IV	\$82.00
Engineering Technician III	\$72.00
Engineering Technician II	\$47.00
Engineering Technician I	\$23.00
Environmental Director	\$181.00
Environmental Specialist III	\$93.00
Environmental Specialist II	\$88.00
Environmental Specialist I	\$63.00
Professional Surveyor II	\$153.00
Professional Surveyor I	\$125.00
Surveyor V	\$79.00
Surveyor IV	\$76.00
Surveyor III	\$64.00
Surveyor II	\$55.00
Surveyor I	\$37.00
Administrative Director	\$134.00
Administrative Staff IV	\$77.00
Administrative Staff III	\$70.00
Administrative Staff II	\$61.00
Administrative Staff I	\$49.00

DIRECT COSTS

Direct Costs will be billed at their actual rate with no mark-up.



Village of Downers Grove
 Stormwater Review Compensation Structure
 August 14, 2008

Category	No Detention	Detention	Special Management Area	Public Improvements	Regulatory Wetlands	FEMA Mapped Revisions
Single Parcel						
Residential addition, pool, garage, etc.	\$275	n/a	Hourly	Hourly	Hourly	Hourly
Residential home site	\$525	n/a	Hourly	Hourly	Hourly	Hourly
Commercial < 1.0 acre	\$1,225	\$2,225	Hourly	Hourly	Hourly	Hourly
Industrial < 1.0 acre	\$1,225	\$2,225	Hourly	Hourly	Hourly	Hourly
Institutional < 1.0 acre	\$1,225	\$2,225	Hourly	Hourly	Hourly	Hourly
Subdivision						
Residential < 5.0 acre	n/a	Hourly	Hourly	Hourly	Hourly	Hourly
Commercial < 5.0 acre	n/a	Hourly	Hourly	Hourly	Hourly	Hourly
Industrial < 5.0 acre	n/a	Hourly	Hourly	Hourly	Hourly	Hourly
Mixed use or PUD < 5.0 acre	n/a	Hourly	Hourly	Hourly	Hourly	Hourly