



# Agenda Item Executive Summary

Item Name Country Creek Streambank Stabilization Consulting Services Committee or Board Board

## BUDGET IMPACT

Amount: \$57,220 Budgeted \$75,000

List what fund General (Stormwater)

## EXECUTIVE SUMMARY

As discussed during the capital budget presentations at the Village Board, Staff has been made aware of the creek behind homes along Country and Redwood Drive. The creek is currently eroding, causing steep drop-offs and potential structure failures along the approximate 1,500 linear feet of creek. Staff sent out a request for statement of interest to three (3) different engineering firms. Staff met each of them out on site, with permission from some homeowners to observe the current creek conditions, and discuss potential solutions. Staff reviewed the Statements of Interest, considered current workloads of the firms both within the Village and surrounding areas and past projects of similar size and scope.

HLR has submitted a proposal to perform the Phase I Engineering Services for the Country Creek Streambank Stabilization. The proposal includes agency coordination, concept planning and resident coordination. The proposal will also include survey work, concept design work and looking into different funding options for the project. The proposal and agreement are attached for your review.

## RECOMMENDATION

Staff recommends entering into the professional services agreement between Hampton, Lenzini and Renwick, Inc. and the Village of Bartlett for the Phase I Engineering Services for the Country Creek Streambank Stabilization Project.

## ATTACHMENTS (PLEASE LIST)

Memo  
Resolution  
Agreement

## ACTION REQUESTED

- For Discussion Only
- ✓ Resolution
- Ordinance
- ✓ Motion: **MOTION TO APPROVE RESOLUTION #2023-\_\_\_\_-R, A RESOLUTION APPROVING OF A PROFESSIONAL SERVICES AGREEMENT BETWEEN THE VILLAGE OF BARTLETT AND HAMPTON, LENZINI AND RENWICK, INC. FOR THE COUNTRY CREEK STREAMBANK STABILIZATION PHASE I ENGINEERING**

Staff: Tyler Isham, Assistant Director of Public Works Date: 2/27/2023

# Memo

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**To:** Paula Schumacher, Village Administrator  
**From:** Tyler Isham, Assistant Director of Public Works  
**Subject:** **Country Creek Streambank Stabilization Consulting Services**  
**Date:** February 27, 2023

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## **BACKGROUND**

As discussed during the capital budget presentations at the Village Board, Staff has been made aware of the creek behind homes along Country and Redwood Drive. The creek is currently eroding, causing steep drop-offs and potential structure failures along the approximate 1,500 linear feet of creek. Staff sent out a request for statement of interest to three (3) different engineering firms; Christopher B. Burke Engineering, Ltd. (CBBEL), Baxter & Woodman and Hampton, Lenzini and Renwick, Inc. (HLR). Staff met each of them out on site, with permission from some homeowners to observe the current creek conditions, and discuss potential solutions. Staff reviewed the Statements of Interest, considered current workloads of the firms both within the Village and surrounding areas and past projects of similar size and scope. After careful consideration, Staff requested a proposal from HLR.

## **DISCUSSION**

HLR has submitted a proposal to perform the Phase I Engineering Services for the Country Creek Streambank Stabilization. The proposal includes agency coordination, concept planning and resident coordination. The proposal will also include survey work, concept design work and looking into different funding options for the project. The proposal and agreement are attached for your review.

## **RECOMMENDATION**

Staff recommends entering into the professional services agreement between Hampton, Lenzini and Renwick, Inc. and the Village of Bartlett for the Phase I Engineering Services for the Country Creek Streambank Stabilization Project.

## **MOTION**

**I MOVE TO APPROVE RESOLUTION #2023-\_\_\_\_-R, A RESOLUTION APPROVING OF A PROFESSIONAL SERVICES AGREEMENT BETWEEN THE VILLAGE OF BARTLETT AND HAMPTON, LENZINI AND RENWICK, INC. FOR THE COUNTRY CREEK STREAMBANK STABILIZATION PHASE I ENGINEERING**

RESOLUTION 2023 - \_\_\_\_\_-R

**A RESOLUTION APPROVING OF A PROFESSIONAL SERVICES AGREEMENT  
BETWEEN THE VILLAGE OF BARTLETT AND HAMPTON, LENZINI AND RENWICK,  
INC. FOR THE COUNTRY CREEK STREAMBANK STABILIZATION PHASE I  
ENGINEERING**

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**BE IT RESOLVED** by the President and Board of Trustees of the Village of Bartlett, Cook, DuPage and Kane Counties, Illinois, as follows:

**SECTION ONE:** The Agreement dated March 7, 2023, between the Village of Bartlett and Hampton, Lenzini and Renwick. (the "Agreement"), a copy of which is appended hereto and expressly incorporated herein by this reference, is hereby approved.

**SECTION TWO:** That the Village President is hereby authorized and directed to sign the Agreement on behalf of the Village of Bartlett.

**SECTION THREE: SEVERABILITY.** The various provisions of this Resolution are to be considered as severable, and of any part or portion of this Resolution shall be held invalid by any Court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this Resolution.

**SECTION FOUR: REPEAL OF PRIOR RESOLUTIONS.** All prior Resolutions in conflict or inconsistent herewith are hereby expressly repealed only to the extent of such conflict or inconsistency.

**SECTION FIVE: EFFECTIVE DATE.** This Resolution shall be in full force and effect upon passage and approval.

**ROLL CALL VOTE:**

AYES:

NAYS:

ABSENT:

PASSED: **March 7, 2023**

APPROVED: **March 7, 2023**

\_\_\_\_\_  
**Kevin Wallace, Village President**

**ATTEST:**

\_\_\_\_\_  
**Lorna Giles, Village Clerk**

**CERTIFICATION**

I, Lorna Giles, do hereby certify that I am the Village Clerk of the Village of Bartlett, Cook, DuPage and Kane Counties, Illinois, and that the foregoing is a true, complete and exact copy of Resolution 2023 - \_\_\_\_\_-R enacted on March 7, 2023 and approved on March 7, 2023, as the same appears from the official records of the Village of Bartlett.

\_\_\_\_\_  
**Lorna Giles, Village Clerk**



# Hampton, Lenzini and Renwick, Inc.

Civil Engineers • Structural Engineers • Land Surveyors • Environmental Specialists  
www.hltrengineering.com

February 11, 2023

Mr. Tyler Isham  
Assistant Public Works Director  
Village of Bartlett  
228 South Main Street  
Bartlett, Illinois 60103

Re: Consulting Services Agreement – Country Creek Streambank Stabilization Phase 1 Engineering

Dear Mr. Isham:

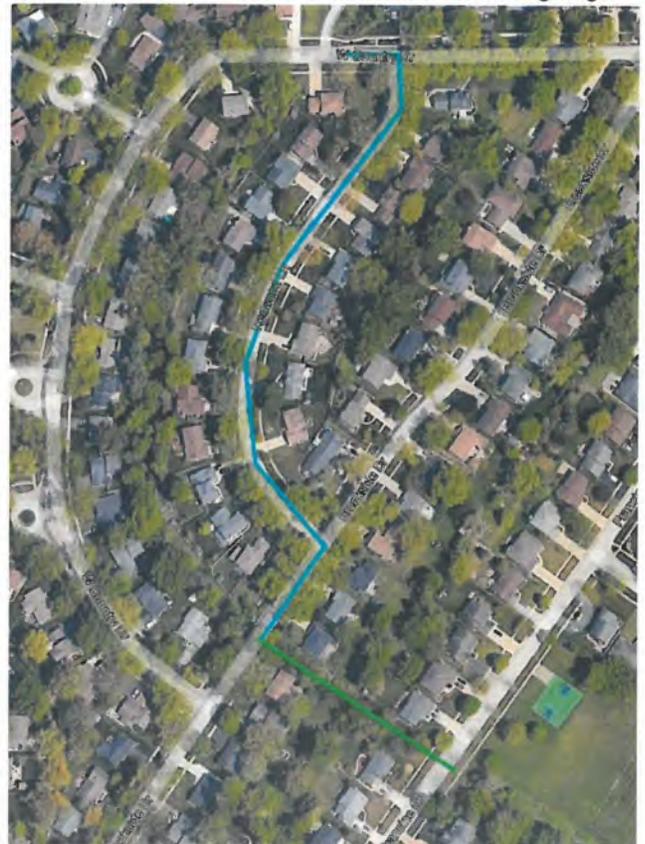
Hampton, Lenzini and Renwick, Inc. (HLR) has prepared this proposal letter agreement to complete the preliminary/conceptual engineering for the Country Creek stabilization project. The project is the section of Country Creek located between West Country Drive and Francine Drive, west of Redwood Lane, in Bartlett, DuPage County, Illinois. Approximately 1,500 linear feet of creek is being evaluated as part of this project. The stream is owned by individual resident as part of their home lots. There is an existing easement present in most of the properties, however the existing easement does not appear to contain the entirety of the creek banks. There are electric and other public utilities present in the easement. The Village attorney should review existing plats to determine if utilities within this easement area will have to be relocated at the cost of the Village or the Utility.

The scope of this project will consist largely of agency coordination, concept planning and resident coordination. Concept plans include installing a low-flow stormwater diversion pipe from the creek east along Country Drive, south on Redwood Lane, west on Brookside Drive to connect back up with the main creek corridor. This will reduce future erosion during large storm events, and also provide a stabilized conveyance for dewatering the creek during construction. We are proposing a large box culvert to enclose the stream bank between Brookside Drive and Francine Drive. The two houses on each side of the creek are extremely close to the top of bank, and there is risk of structural instability.

The goal of this proposal is to initiate discussions with agencies, determine potential costs of repairs, determine support within the community, and evaluate possible scopes of repairs.

### Task 1: Limited Topographic Survey

HLR will provide topographic survey using State Plane East coordinates on NAVD-88 vertical datum. Control will be set so increase elevation accuracy and for future topographic requirements for the ultimate design. The topographic survey will for the concept phase of the project will include structures at Francine, Brookside and West Country Drive. Information gathered include upstream and downstream inverts, pipe size, and limited roadway information. Also, two representative stream sections will also be surveyed to better provide scale of the improvement along with an Estimate of Probable Cost with increase accuracy. Existing contour data, JULIE design locate, a few cross sections. Two representative cross sections one west of



380 Shepard Drive  
Elgin, Illinois 60123-7010  
Tel. 847.697.6700  
Fax 847.697.6753

380 N. Terra Cotta Road, Unit G  
Crystal Lake, Illinois 60014  
Tel. 847.697.6700  
Fax 847.697.6753

3085 Stevenson Drive, Suite 201  
Springfield, Illinois 62703  
Tel. 217.546.3400  
Fax 217.546.8116

323 West 3rd Street  
P.O. Box 160  
Mt Camel, Illinois 62863  
Tel. 618.262.8651  
Fax 618.263.3327

Brookside Drive and one east, house corners on each side of the creek. Survey of structures for Francine, Brookside and West Country Drive, upstream and downstream inverts, and sizes will be completed.

### **Task 2: Concept Design Engineering Services**

This task will include the concept design and schematic of proposed improvements. The purpose of this engineering concept design will be to repair the stream bank, prevent additional flooding issues, and provide a safer buffer around the creek.

Deliverables for Task 2 include:

- Concept plan with example cross sections and schematics of proposed stormwater improvements
- Ballpark Estimate of Probable Cost
- Utility Coordination

Concept plans include installing a stormwater diversion pipe to convey low-flow water during the construction of the creek stabilization. This proposed diversion pipe can all be used to reduce future erosion during large storm events, provide additional flood flow conveyance, and provide a stabilized conveyance for dewatering the creek during construction. We are proposing a large box culvert to enclose the stream bank between Brookside Drive and Francine Drive. The two houses on each side of the creek are extremely close to the top of bank, and there is risk of structural instability.

HLR will also estimate 1-year and 2-year flow rates to help establish an approximate size of the proposed diversion storm sewer. This will also be used in discussions with the USACE and DuPage County regarding the project specifics.

We anticipate that gabion baskets and other stabilization measures will be required for the stretch of creek between West Country Drive and Brookside Drive. The current topography is very steep with significant shoreline erosion issues and shear vertical banks with no vegetation in some locations. Potential solutions to be explored include gabion baskets, sheet piling, regrading slopes and installing native deep-rooted plantings, floodplain benching, vegetated geogrids, etc. Details, cross-sections and other documentation may be provided with the concept plan.

### **Utility Coordination**

HLR will coordinate with utilities to determine their facility locations, potential conflicts identification, and resolution of those conflicts. The major work items under this task will include:

- A J.U.L.I.E. Design Level Locate request will be submitted.
- HLR will log private utility responses along with information provided.

### **Task 3: Agency Coordination**

#### **DuPage County Stormwater Management**

HLR will coordinate and attend a meeting with the DuPage County Stormwater Management representatives to discuss the permitting of the streambank stabilization project as well as to receive their support to fund this section.

#### **US Army Corps of Engineers (USACE)**

HLR will coordinate and attend a meeting with the USACE to present the project and proposed engineering design to the USACE to get their feedback on the design with the goal of facilitating the permitting process.

#### **Illinois Environmental Protection Agency (IEPA) Section 319 Grant**

HLR will coordinate and attend a meeting with a representative of the IEPA 319 grant committee or experienced agency representative involved in the Section 319 grant process to discuss the streambank stabilization project, partnering and chances of receiving a grant.

#### **Illinois Department of Natural Resources – Office of Water Resources (IDNR-OWR)**

HLR will coordinate and attend a meeting with the IDNR-OWR to present the project and proposed engineering design to the IDNR-OWR to get their feedback on the design with the goal of facilitating the permitting process.

**Task 4: Coordination and Consultation**

This item includes coordination, scheduling, and oversight of the entire project. HLR will assist the Village with resident and board member education. No easement documentation, land acquisition or formal public meeting is included in this proposal. We anticipate that those items would follow in subsequent phase of the project.

- Kickoff Meeting - Kickoff Meeting with Client (assume 1 meeting).
- Coordination Meeting - Coordination and design meeting with the Client (assume 2 meetings).
- Status Emails – HLR will provide regular updates to the Client regarding project status. It is estimated that these emails will be monthly to provide clear updates or progress and upcoming design milestones.

**Presentation of Findings**

HLR will prepare a presentation summarizing the findings of the Country Creek Phase 1 results and discussing proposed solutions to the Board and Public at a Committee of the Whole Meeting.

**Task 5: Quality Assurance and Project Administration**

This task includes project administration, and quality assurance and quality control per HLR's QA/QC plan.

This proposed scope does not include:

- Agency permit fees
- Storm sewer televising
- Coordination with adjacent property owners

**SCOPE OF SERVICES**

The Client and Consultant have agreed to a list of Basic Services the Consultant will provide to the Client, listed on the appended Scope of Services, labeled as Exhibit A.

Services not set forth above as Basic Services and not listed in Exhibit A of this Agreement are specifically excluded from the scope of the Consultant's services. The Consultant assumes no responsibility to perform any services not specifically listed in Exhibit A.

**COMPENSATION**

**Billing Terms**

For our services we will be compensated at the following hourly rates which will be considered payment in full to Hampton, Lenzini and Renwick, Inc. for actual employee time utilized to provide the required services, said rates include overhead and burden costs plus profit. Other out-of-pocket expenses will be reimbursed at our actual cost.

<b>Employee Classification</b>	<b>2023 Rates</b>
PRINCIPAL	\$ 230.00
ENGINEER 6	\$ 205.00
ENGINEER 5	\$ 185.00
ENGINEER 4	\$ 180.00
ENGINEER 3	\$ 160.00
ENGINEER 2	\$ 130.00
ENGINEER 1	\$ 115.00
STRUCTURAL 2	\$ 225.00
STRUCTURAL 1	\$ 185.00

TECHNICIAN 3	\$ 155.00
TECHNICIAN 2	\$ 125.00
TECHNICIAN 1	\$ 100.00
INTERN/TEMPORARY	\$ 65.00
LAND ACQUISITION	\$ 165.00
SURVEY 2	\$ 155.00
SURVEY 1	\$ 120.00
ENVIRONMENTAL 3	\$ 175.00
ENVIRONMENTAL 2	\$ 130.00
ENVIRONMENTAL 1	\$ 100.00
ADMINISTRATION 2	\$ 145.00
ADMINISTRATION 1	\$ 85.00

These rates will remain in effect through December 31, 2023. In the event our services are required after that date, we will submit revised rates to be utilized through December 31, 2024.

#### **Payment Terms**

Invoices shall be submitted by the Consultant on a monthly basis, are due upon presentation and shall be considered past due if not paid within 30 calendar days of the invoice date.

If the Client fails to make payments when due or otherwise is in breach of this Agreement, the Consultant may suspend performance of services upon 30 calendar days' notice to the Client. The Consultant shall have no liability whatsoever to the Client for any costs or damages as a result of such suspension caused by any breach of this Agreement by the Client. Upon payment in full by the Client, the Consultant shall resume services under this Agreement, and the time schedule and compensation shall be equitably adjusted to compensate for the period of suspension plus any other reasonable time and expense necessary for the Consultant to resume performance.

If the Client fails to make payment to the Consultant in accordance with the payment terms herein, this shall constitute a material breach of this Agreement and shall be cause for termination of this Agreement by the Consultant.

If the Client objects to any portion of an invoice, the Client shall so notify the Consultant in writing within ten (10) calendar days of receipt of the invoice. The Client shall identify in writing the specific cause of the disagreement and the amount in dispute and shall pay that portion of the invoice not in dispute in accordance with the other payment terms of this Agreement. Any dispute over invoiced amounts due which cannot be resolved within ten (10) calendar days after presentation of invoice by direct negotiation between the parties shall be resolved within thirty (30) calendar days in accordance with the Dispute Resolution provision of this Agreement. Interest as stated above shall be paid by the Client on all disputed invoice amounts that are subsequently resolved in the Consultant's favor and shall be calculated on the unpaid balance from the due date of the invoice.

Payments to the Consultant shall not be withheld, postponed, or made contingent on the construction, completion, or success of the project or upon receipt by the Client of offsetting reimbursement or credit from other parties who may have caused Additional Services or expenses. No withholdings, deductions, or offsets shall be made from the Consultant's compensation for any reason unless the Consultant has been found to be legally liable for such amounts.

#### **GENERAL TERMS AND CONDITIONS**

##### **Assignment**

Neither party to this Agreement shall transfer, sublet, or assign any rights under or interest in this agreement without the prior written consent of the other party. Subcontracting to sub-consultants normally contemplated by the Consultant shall not be considered an assignment for purposes of this agreement.

##### **Changed Conditions**

If, during the term of this Agreement, circumstances or conditions that were not originally contemplated by or known to the Consultant are revealed, to the extent that they affect the scope of services, compensation, schedule, allocation of risks, or other material terms of this Agreement, the Consultant may call for renegotiation of appropriate portions of this Agreement. The Consultant shall notify the Client of the changed conditions necessitating renegotiation, and the Consultant and the

Client shall promptly and in good faith enter into renegotiation of this Agreement to address the changed conditions. If terms cannot be agreed to, the parties agree that either party has the absolute right to terminate this Agreement, in accordance with the Termination provision hereof.

#### **Confidential Communications**

The Consultant may be required to report on or render confidential opinions about the past or current performance and/or qualifications of others engaged or being considered for engagement directly or indirectly by the Client. Those about whom reports and opinions are rendered may as a consequence initiate claims against the consultant. To help create an atmosphere in which the Consultant may freely report or express such opinions candidly in the interest of the Client, the Client agrees, to the fullest extent permitted by law, to indemnify and hold harmless the Consultant against all damages, liabilities, or costs arising from the rendering of such confidential opinions and reports by the Consultant to the Client or to the Client's agents.

#### **Consequential Damages**

Notwithstanding any other provision of this Agreement, and to the fullest extent permitted by law, neither the Client nor the Consultant, their respective officers, directors, partners, employees, contractors, or sub-consultants shall be liable to the other or shall make any claim for any incidental, indirect, or consequential damages arising out of or connected in any way to the Project or to this Agreement. This mutual waiver of consequential damages shall include, but is not limited to, loss of use, loss of profit, loss of business, loss of income, loss of reputation, or any other consequential damages that either party may have incurred from any cause of action including negligence, strict liability, breach of contract, and breach of strict or implied warranty. Both the Client and the Consultant shall require similar waivers of consequential damages protecting all the entities or persons named herein in all contracts and subcontracts with others involved in this project.

#### **Corporate Protection**

It is intended by the parties to this Agreement that the Consultant's services in connection with the Project shall not subject the Consultant's individual employees, officers, or directors to any personal legal exposure for the risks associated with this Project. Therefore, and notwithstanding anything to the contrary contained herein, the Client agrees that as the Client's sole and exclusive remedy, any claim, demand, or suit shall be directed and/or asserted only against Hampton, Lenzini and Renwick, Inc., a Delaware corporation, and not against any of the Consultant's individual employees, officers, or directors.

#### **Defects in Service**

The Client shall promptly report to the Consultant any defects or suspected defects in the Consultant's services of which the Client becomes aware, so that the Consultant may take measures to minimize the consequences of such a defect. The Client further agrees to impose a similar notification requirement on all contractors in its Client/Contractor contract and shall require all subcontracts at any level to contain a like requirement. Failure by the Client and the Client's contractors or subcontractors to notify the Consultant shall relieve the Consultant of the costs of remedying the defects above the sum such remedy would have cost had prompt notification been given when such defects were first discovered.

#### **Delays**

The Client agrees that the Consultant is not responsible for damages arising directly or indirectly from any delays for causes beyond the Consultant's control. For purposes of this Agreement, such causes include, but are not limited to, strikes or other labor disputes; severe weather disruptions or other natural disasters; fires, riots, war, or other emergencies or acts of God; failure of any government agency or utility to act in timely manner; failure of performance by the Client or the Client's contractors or consultants; or discovery of any hazardous substances or differing site conditions.

In addition, if the delays resulting from any such causes increase the cost or time required by the Consultant to perform its services in an orderly and efficient manner, the Consultant shall be entitled to an equitable adjustment in schedule and/or compensation.

#### **Entire Agreement**

This Agreement, comprising pages 1 through 8, and Exhibit A is the entire Agreement between the Client and the Consultant. It supersedes all prior communications, understandings, and agreements, whether oral or written. Amendments to this Agreement must be in writing and signed by both the Client and the Consultant.

#### **Extension of Protection**

The Client agrees that any and all limitations of the Consultant's liability and indemnifications by the Client to the Consultant shall include and extend to those individuals and entities the Consultant retains for performance of the services under this

Agreement, including but not limited to the Consultant's officers, partners, and employees and their heirs and assigns, as well as the Consultant's sub-consultants and their officers, employees, heirs and assigns.

### **Governing Law and Jurisdiction**

The Client and the Consultant agree that this Agreement and any legal actions concerning its validity, interpretation, and performance shall be governed by the laws of the State of Illinois.

It is further agreed that any legal action between the Client and the Consultant arising out of this Agreement or the performance of the services shall be brought in a court of competent jurisdiction in the County of Kane, Illinois.

### **Hazardous Materials – Suspension of Services**

Both parties acknowledge that the Consultant's scope of services does not include any services related to the presence of any hazardous or toxic materials. In the event the Consultant or any other party encounters any hazardous or toxic materials, or should it become known to the Consultant that such materials may be present on or about the jobsite or any adjacent areas that may affect the performance of the Consultant's services, the Consultant may, at its option and without liability for consequential or any other damages, suspend performance of its services under this Agreement until the Client retains appropriate consultants or contractors to identify and abate or remove the hazardous or toxic materials and warrants that the jobsite is in full compliance with all applicable laws and regulations.

### **Indemnification**

The Consultant agrees, to the fullest extent permitted by law, to indemnify and hold harmless the Client, its officers, directors, and employees (collectively, Client) against all damages, liabilities, or costs, including reasonable attorneys' fees and defense costs, to the extent caused by the Consultant's negligent performance of professional services under this Agreement and that of its sub-consultants or anyone for whom the Consultant is legally liable.

The Client agrees, to the fullest extent permitted by law, to indemnify and hold harmless the Consultant, its officers, directors, employees, and sub-consultants (collectively, Consultant) against all damages, liabilities, or costs, including reasonable attorneys' fees and defense costs, to the extent caused by the Client's negligent acts in connection with the Project and the acts of its contractors, subcontractors, or consultants, or anyone for whom the Client is legally liable.

Neither the Client nor the Consultant shall be obligated to indemnify the other party in any manner whatsoever for the other party's own negligence.

### **Mediation**

In an effort to resolve any conflicts that arise during the design and construction of the Project or following the completion of the Project, the Client and the Consultant agree that all disputes between them arising out of or relating to this Agreement or the Project shall be submitted to nonbinding mediation unless the parties mutually agree otherwise.

The Client and the Consultant further agree to include a similar mediation provision in all agreements with independent contractors and consultants retained for the Project and to require all independent contractors and consultants also to include a similar mediation provision in all agreements with their subcontractors, sub-consultants, suppliers, and fabricators, thereby providing for mediation as the primary method for dispute resolution between the parties to all those agreements.

### **Notice of Delay**

If the Consultant becomes aware of delays due to time allowances for review and approval being exceeded, delay by the Contractor, the Client, the Client's consultants, or any other cause beyond the control of the Consultant, which will result in the schedule for performance of the Consultant's services not being met, the Consultant shall promptly notify the Client. If the Client becomes aware of any delays or other causes that will affect the Consultant's schedule, the Client shall promptly notify the Consultant. In either event, the Consultant's schedule for performance of its services shall be equitably adjusted.

### **Right of Entry**

The Client shall provide for the Consultant's right to enter the property owned by the Client and/or others in order for the Consultant to fulfill the Scope of Services included hereunder. Although the Consultant will exercise reasonable care in performing its services, the Client understands that use of testing or other equipment may unavoidably cause some damage, the correction of which is not part of this Agreement. The Client agrees, to the fullest extent permitted by law, to indemnify and hold harmless the Consultant, its officers, directors, employees, and sub-consultants (collectively, Consultant) against any damages, liabilities, or costs, including reasonable attorneys' fees and defense costs, arising or

allegedly arising from procedures associated with testing or investigative activities or connected in any way with the discovery of hazardous materials or suspected hazardous materials on the property.

#### **Severability**

Any term or provision of this Agreement found to be invalid under any applicable statute or rule of law shall be deemed omitted and the remainder of the Agreement shall remain in full force and effect.

#### **Standard of Care**

In providing services under this Agreement, the Consultant will endeavor to perform in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances.

#### **Suspension of Services**

If the Project or the Consultant's services are suspended by the Client for more than thirty (30) calendar days, consecutive or in the aggregate, over the term of this Agreement, the Consultant shall be compensated for all services performed and reimbursable expenses incurred prior to the receipt of notice of suspension. In addition, upon resumption of services, the Client shall compensate the Consultant for expenses incurred as a result of the suspension and resumption of its services, and the Consultant's schedule and fees for the remainder of the Project shall be equitably adjusted.

If the Consultant's services are suspended for more than ninety (90) days, consecutive or in the aggregate, the Consultant may terminate this Agreement upon giving not less than five (5) calendar days' written notice to the Client.

If the Client is in breach of the payment terms or otherwise is in material breach of this Agreement, the Consultant may suspend performance of services upon five (5) calendar days' notice to the Client. The Consultant shall have no liability to the Client, and the Client agrees to make no claim for any delay or damage as a result of such suspension caused by any breach of this Agreement by the Client. Upon receipt of payment in full of all outstanding sums due from the Client, or curing of such other breach which caused the Consultant to suspend services, the Consultant shall resume services and there shall be an equitable adjustment to the remaining project schedule and fees as a result of the suspension.

#### **Termination**

In the event of termination of this Agreement by either party, the Client shall within fifteen (15) calendar days of termination pay the Consultant for all services rendered and all reimbursable costs incurred by the Consultant up to the date of termination, in accordance with the payment provisions of this Agreement.

The Client may terminate this Agreement for the Client's convenience and without cause upon giving the Consultant not less than seven (7) calendar days' written notice.

Either party may terminate this Agreement for cause upon giving the other party not less than seven (7) calendar days' written notice for any of the following reasons:

- Substantial failure by the other party to perform in accordance with the terms of this Agreement and through no fault of the terminating party;
- Assignment of this Agreement or transfer of the Project by either party to any other entity without the prior written consent of the other party;
- Suspension of the Project or the Consultant's services by the Client for more than ninety (90) calendar days, consecutive or in the aggregate;
- Material changes in the conditions under which this Agreement was entered into, the Scope of Services or the nature of the Project, and the failure of the parties to reach agreement on the compensation and schedule adjustments necessitated by such changes.

In the event of any termination that is not the fault of the Consultant, the Client shall pay the Consultant, in addition to payment for services rendered and reimbursable costs incurred, for all expenses reasonably incurred by the Consultant in connection with the orderly termination of this Agreement, including but not limited to demobilization, reassignment of personnel, associated overhead costs and all other expenses directly resulting from the termination.

**Third-Party Beneficiaries**

Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the Client or the Consultant. The Consultant's services under this Agreement are being performed solely for the Client's benefit, and no other party or entity shall have any claim against the Consultant because of this Agreement or the performance or nonperformance of services hereunder. The Client and Consultant agree to require a similar provision in all contracts with contractors, subcontractors, sub-consultants, vendors and other entities involved in this Project to carry out the intent of this provision.

**Unauthorized Changes**

In the event the Client, the Client's contractors or subcontractors, or anyone for whom the Client is legally liable makes or permits to be made any changes to any reports, plans, specifications or other construction documents prepared by the Consultant without obtaining the Consultant's prior written consent, the Client shall assume full responsibility for the results of such changes. Therefore the Client agrees to waive any claim against the Consultant and to release the Consultant from any liability arising directly or indirectly from such changes.

In addition, the Client agrees, to the fullest extent permitted by law, to indemnify and hold harmless the Consultant from any damages, liabilities, or costs, including reasonable attorneys' fees and costs of defense, arising from such changes.

In addition, the Client agrees to include in any contracts for construction appropriate language that prohibits the Contractor or any subcontractors of any tier from making any changes or modifications to the Consultant's construction documents without the prior written approval of the Consultant and that further requires the Contractor to indemnify both the Consultant and the Client from any liability or cost arising from such changes made without such proper authorization.

If this agreement meets with your approval, please have the proper Village officials sign and date where indicated below and return one (1) copy for our file. If you have questions on any of the above, please call Karen Kase at our Elgin office.

Sincerely,  
**HAMPTON, LENZINI AND RENWICK, INC.**

By:



Randal G. Newkirk, PE  
Corporate Secretary

**ACCEPTANCE**

The terms and conditions of this letter agreement are hereby accepted by the Village of Bartlett for streambank stabilization design services set forth above.

By \_\_\_\_\_

\_\_\_\_\_ Date

Title \_\_\_\_\_

