

Memo

DATE: March 10, 2025

TO: Paula Schumacher
Village Administrator

FROM: Dan Dinges, PE
Director of Public Works

SUBJECT: Stearns Road Reservoir Painting

The Stearns Road Reservoir was last painted when it was first installed in 1979. The tower needs a complete blast and painting of the inside and outside.

Bids were opened and read on March 6, 2025, for the Stearns Road Reservoir Painting. Nine (9) bids were received and ranged from \$561,000 to \$925,700. The low bidder, L.C United., is a prequalified contractor. We believe the proposal is a good price based on the pricing we have been experiencing lately.

We recommend the award of the Stearns Road Reservoir Painting to L.C United Painting Co., Inc.

MOTION: I move to approve Resolution 2025-_____, a Resolution Awarding Contract and Approving the Contract Agreement Between L.C. United Painting Co., Inc. and the Village of Bartlett for the Schick Road Water Tower Painting.



March 7, 2025

Mr. Daniel Dinges
Village of Bartlett
1150 Bittersweet Drive
Bartlett, IL 60103

Subject: 1,000,000 Gallon Reservoir (Stearns Road) Tank Rehabilitation Recommendation Letter

Dear Mr. Dinges:

Dixon Engineering, Inc. has reviewed the bids submitted for the rehabilitation and repainting of the Village's 1,000,000 gallon reservoir (Stearns Road). We recommend the award to the lowest bidder, LC United Painting, Inc. of Sterling Heights, MI in the amount of \$561,000. This includes all line items on the Schedule of Values. Bidding was very competitive with nine bids received, the highest bid coming in at \$925,700 and the lowest at \$561,000.

LC United Painting, Inc. is a prequalified painting contractor with Dixon Engineering for this Scope of Work. LC United Painting, Inc has completed several water tower paint projects in similar size and scope in Illinois and many others in the Midwest in the last couple years.

Enclosed for your review and action is a copy of the Notice of Award, should you decide to award this project to LC United Painting, Inc. After Village approval, please sign and forward a copy to the contractor for signature. Instruct the contractor to return one copy to you, forward a copy to our office, and retain a copy for his files. Also, please notify the contractor that he is to forward to our office the required bonds and certificate(s) of insurance for inclusion in the contract documents. We ask that you do this as the contract is between Bartlett, IL and the contractor. The contractor has our mailing address.

We appreciate this opportunity to be of service to you on this project. If you have any questions regarding our recommendation, please contact me at (630) 376-8322.

FOR DIXON ENGINEERING, INC

A handwritten signature in blue ink that reads "Todd Schaefer".

Todd Schaefer
Project Manager



VILLAGE OF BARTLETT

Stearns Road Reservoir Painting
BID TABULATION
 March 10, 2025

				L.C. United Painting Co. Inc.		Era-Valdivia		Dynamic		Seven Brothers		E & L		Jetco		Tecorp		Neuman		MW Cole	
Item No.	Items	Unit	Quantity	Unit Price	Total	Unit Price	Total	Unit Price	Total	Unit Price	Total	Unit Price	Total	Unit Price	Total	Unit Price	Total	Unit Price	Total	Unit Price	Total
1	Stearns Rd Reservoir Painting		1		\$561,000.00		\$566,800.00		\$587,000.00		\$593,475.00		\$650,800.00		\$726,527.00		\$802,400.00		\$854,200.00		\$925,700.00
TOTAL				\$561,000.00	\$566,800.00	\$587,000.00	\$593,475.00	\$650,800.00	\$726,527.00	\$802,400.00	\$854,200.00	\$925,700.00									

RESOLUTION 2025 - _____

**A RESOLUTION APPROVING OF THE
STEARNS ROAD RESERVOIR PAINTING PROJECT AGREEMENT BETWEEN
THE VILLAGE OF BARTLETT AND L.C. UNITED PAINTING CO., INC.**

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: 2025 Stearns Road Reservoir Painting Project Agreement dated March 18, 2025, between the Village of Bartlett and L.C. United Painting Co., Inc. (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 and the Village Clerk are hereby authorized and directed to sign and attest, respectively, 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 Ordinances and 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 18,2025

APPROVED: March 18, 2025

Kevin Wallace, Village President

ATTEST:

Lorna Giles, Village Clerk

CERTIFICATION

I, the undersigned, 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 2025 - _____ enacted on March 18, 2025, and approved on March 18, 2025, as the same appears from the official records of the Village of Bartlett.

Lorna Giles, Village Clerk

PUBLIC WORKS CONSTRUCTION AGREEMENT

This Public Works Construction Agreement (this "Agreement") is entered this 18 day of March, between the Village of Bartlett, an Illinois home rule municipality (the "Village" or "Owner") and LC United Painting Co, Inc. (the "Contractor") (collectively, the "Parties").

NOW THEREFORE, IN CONSIDERATION OF the recitals and the mutual covenants and agreements set forth in this Agreement, and pursuant to the Village's home rule authority, the parties hereby agree as follows:

Section 1. Contract Documents. The Contract documents consist of this Agreement, the Notice to Bidders, Instructions to Bidders, General Conditions, and Specifications issued by the Village dated February 5th and the completed proposal packet, including the completed bid form and any addenda thereto, and the Contractor's performance and payment bond, all attached hereto and incorporated herein as Exhibit A. These documents represent the entire agreement between the parties, and no statement, promise or inducement made by either party to the other that is not contained therein shall be binding. In the event of a conflict between the terms of any of the Contract Documents, the most stringent requirements as applied to the Contractor will apply.

Section 2. Project Work. The work to be performed by the Contractor under this Agreement will generally include exterior repainting with containment, wet interior repaint and miscellaneous repairs on the 1,000,000 gallon reservoir (the "Work"), and such Work will be performed in strict conformance with the Contract Documents.

Section 3. Commencement and Completion Dates.

- A. Commencement Date: Contractor must commence the Work no later than September 1, 2025, or April 13, 2026 depending on which season schedule the contractor is utilizing per the bid.
- B. Substantial Completion Date: Contractor must substantially complete the Project Work in strict compliance with the requirements of the Contract Documents by two months after commencement of the project. Time is of the essence for all matters concerning this Agreement.

Section 4. Term; Termination.

- A. Term: The term of this Agreement, unless terminated pursuant to Section 4(B) herein, will expire upon the date the Village determines that the Work has been fully completed by the Contractor pursuant to this Agreement. A determination of completion will not constitute a waiver of any rights or claims that the Village has accrued prior to or following completion of the Work, with respect to any

breach of this Agreement by the Contractor or any right of indemnification of the Village by the Agreement.

- B. Termination: Notwithstanding any other provision hereof, the Village may terminate this Agreement, at any time and for any reason, upon seven (7) days' prior written notice to the Contractor. In the event this Agreement is terminated by the Village, the Village hereby agrees to compensate the Contractor for the Work actually performed and reimbursable expenses actually incurred, if any, prior to the termination date.

Section 5. Scope of Services.

- A. The Contractor shall provide the materials, services, and equipment to fully execute the Work described in the Contract Documents.
- B. The Work shall be furnished and completed pursuant to the terms and conditions of the Contract Documents.
- C. 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.
- D. Contractor shall employ all necessary measures to avoid damage to existing surrounding public and private property during Work. Persons other than those actually engaged in construction operations, inspections, or supervision thereof shall be prohibited from the Property.
- E. Contractor shall conduct the Work and any debris removal in such a manner as to minimize interference with road, streets, walks, and other adjacent occupied facilities.
- F. The Contractor, as soon as practicable after award of the Agreement, shall furnish in writing to the Village the names of subcontractors or suppliers for each portion of the Work. The Contractor shall not Agreement with any subcontractor or supplier to whom the Village has made a timely and reasonable objection.
- G. Contractor shall bind all subcontractors by the terms and obligations set forth in this Agreement. Contractor is liable for the acts of any subcontractors when performing the Work, as if the Work was conducted by the Contractor itself.
- H. Contractor will provide the Village with all warranties as required by the Contract Documents.

Section 6. Labor and Materials.

- A. 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.
- B. The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Work. The Contractor shall not permit employment of unfit persons or persons not skilled in tasks assigned to them.
- C. Execution of this Agreement by the Contractor is a representation by the Contractor that it has conducted such investigations as may have been necessary to enable the Contractor to determine the cost of the Work and that it has sufficient information to complete the Work in accordance with applicable laws and regulations, and otherwise to fulfill all its obligations hereunder, including, but not limited to, Contractor's obligations to perform the Work for an amount not in excess of that listed in the Contractor's bid submission. The Contractor further acknowledges and declares that it has visited and examined the project site, examined all physical and other conditions affecting the Work and is fully familiar with all of the conditions thereon and thereunder effecting the same. In connection therewith, Contractor specifically represents and warrants to Village that prior to the submission of its bid it: (a) thoroughly examined the location of the work to be performed, is familiar with local conditions, and thoroughly understands the physical conditions prevalent or likely to be encountered in the performance of the work at such location; (b) examined the nature, location, and character of the general area in which the project is located, including without limitation, its climatic conditions, available labor supply and labor costs, and available equipment supply and equipment costs; and (3) examined the quality and quantity of all materials, supplies, tools, equipment, labor, and professional services necessary to complete the Work within the amount listed in the Contractor's bid submission.

Section 7. Indemnification. To the fullest extent permitted by law, Contractor agrees to waive any and all rights of contribution against the Village and to defend, indemnify and hold harmless the Village and its officers, elected and appointed officials, employees, volunteers and agents from and against all claims, damages, losses and expenses, including, but not limited to, legal fees (attorney's and paralegal's fees, expert fees and court costs) arising out of or resulting from the Contractor's performance of the Work, provided that any such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or injury to or destruction of property, other than the Work itself, including the loss of use resulting therefrom, to the extent it is caused in whole or in part by any wrongful or negligent act or omission of the Contractor, any Subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable. Such obligation shall not be construed to negate, abridge or otherwise

reduce any other right to indemnity which the Village would otherwise have. The Contractor shall similarly, protect, defend, indemnify and hold and save harmless, the Village, its officers, elected and appointed officials, employees, volunteers and agents against and from any and all claims, costs, causes, actions and expenses, including, but not limited to, legal fees, incurred by reason of Contractor's breach of any of its obligations hereunder, or Contractor's default of any provisions of this Agreement. The indemnification obligations under this paragraph shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for the Contractor or any subcontractor under Workers' Compensation or Disability Benefit Acts or Employee Benefit Acts. The rights and obligations of this Section shall survive the voluntary or involuntary termination of this Agreement.

Section 8. Insurance.

A. Minimum. The Contractor will, at its sole cost, obtain and keep in force at all times during the performance of the Work and any part thereof, Workers Compensation and Employer's Liability Insurance, Commercial Liability Insurance, and Automobile Insurance in at least the type and amounts set forth below. The cost of such insurance will be borne by the Contractor.

1. Workers' Compensation:
 - a. State: Statutory
 - b. Applicable Federal (e.g., Longshoremen's): Statutory
 - c. Employer's Liability

\$500,000.00	Per Accident
\$500,000.00	Disease, Policy Limit
\$500,000.00	Disease, Each Employee
2. Commercial General Liability:
 1. \$2,000,000.00 General Aggregate
 2. \$1,000,000.00 Products Completed Operations Aggregate
 3. \$1,000,000.00 Personal and Advertising Injury
 4. \$1,000,000.00 Each Occurrence
 5. \$ 50,000.00 Fire Damage (any one fire)
 6. \$ 5,000.00 Medical Expense (any one person)
3. Business Automobile Liability (including owned, non-owned and hired vehicles):
 - a. Bodily Injury:

\$1,000,000.00	Per Person
\$1,000,000.00	Per Accident
 - b. Property Damage:

\$1,000,000.00	Per Occurrence
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4. Umbrella Excess Liability:

\$2,000,000.00	over Primary Insurance
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B. Evidence of Insurance.

1. Prior to beginning the Work, Contractor shall furnish the Village with a certificate(s) of insurance and applicable policy endorsement(s), executed by a duly authorized representative of each insurer, showing compliance with the insurance requirements set forth above.
2. Failure of the Village to demand any certificate, endorsement or other evidence of full compliance with these insurance requirements or failure of the Village to identify a deficiency shall not be construed as a waiver of Contractor's obligation to maintain such insurance. The Contractor agrees that the obligation to provide the insurance required by these documents is solely its responsibility and that this is a requirement which cannot be waived by any conduct, action, inaction, or omission by the Village.
3. The Village shall have the right, but not the obligation, of prohibiting Contractor from commencing the Work until such certificates or other evidence that insurance has been placed in complete compliance with these requirements is received by the Village.
4. Failure to maintain the required insurance may result in termination of this Agreement at the Village's option.

C. Miscellaneous.

1. All policies of insurance purchased or maintained in fulfillment of this Agreement shall name the Village of Bartlett, its elected and appointed officers, employees, volunteers, and agents as additional insureds thereunder and the Contractor shall provide Certificates of Insurance and Policy Endorsements evidencing the coverages required under this Agreement.
2. Any deductible or self-insured retentions must be declared to, and approved by, the Village. At the option of the Village, Contractor may be asked to eliminate such deductibles or self-insured retentions as respects the Village, its officers, elected and appointed officials, and employees or required to procure a bond guaranteeing payment of losses and other related costs including but not limited to investigations, claim administration, and defense expenses.
3. All insurance shall be written on an "occurrence" basis rather than a "claims-made" basis.
4. Upon request, the Contractor will provide copies of any or all policies of insurance maintained in fulfillment hereof.

5. All the insurance required of the Contractor shall state that the coverage afforded to the additional insureds shall be primary insurance of the additional insureds with respect to claims arising out of operations performed by or on their behalf. If the "additional insureds" have other insurance or self-insured coverage which is applicable to the loss, it shall be on an excess or contingent basis.
6. For insurance companies which obtain a rating from A.M. Best, that rating should be no less than A VII using the most recent edition of the A.M. Best's Key Rating Guide. If the Best's rating is less than A VII or a Best's rating is not obtained, the Village has the right to reject insurance written by an insurer it deems unacceptable.
7. Nothing contained in this Agreement is to be construed as limiting the liability of the Contractor. The Village does not, in any way, represent that the coverages or limits of insurance specified is sufficient or adequate to protect the Village, or the Contractor, but are merely minimums.

Section 9. Performance and Payment Bonds.

- A. Contractor, before commencing the Work, shall furnish a Performance Bond and a Labor and Material Bond. The Performance Bond shall be in an amount equal to 100% of the full amount of the Agreement Sum as security for the faithful performance of the obligation of the Contract Documents, and the Labor and Material Payment Bond shall be in an amount equal to 100% of the full amount of the Agreement Sum as security for the payment of all persons performing labor and furnishing materials in connection with the Contract Documents. Such bonds shall be on forms provided by the Owner, shall be issued by a surety satisfactory to the Owner, and shall name the Owner as a primary co-obligee. The cost of the bonds is included in the Agreement Sum. The Performance Bond and Labor and Material Payment Bond will become a part of this Agreement.
- B. The Contractor shall deliver the required bonds to the Owner not later than five days following the date this Agreement is entered into, or if the Work is to be commenced prior thereto in response to a letter of intent, the Contractor shall, prior to the commencement of the Work, submit evidence satisfactory to the Owner that such bonds will be furnished.
- C. The Contractor shall require the attorney-in-fact who executed the required bonds on behalf of the surety to affix thereto a certified and current copy of the power of attorney.
- D. Whenever the Contractor shall be and is declared by Owner to be in default under the Agreement, the Surety and the Contractor are each responsible to make full payment to the Owner or any and all extra Work incurred as a result of the Contractor's default, and to pay to Owner all attorney's fees and court

costs incurred by Owner as a result of the Contractor's default, and in protecting Owner's rights under the Agreement to remedy Contractor's default.

- E. The Contractor shall (i) furnish all Surety Company's bonds through Surety Company's local agents approved by and/or as directed by Owner; (ii) fully covered and guarantee with said bond the faithful performance and completion of the entire Agreement, including without limitation, the faithful performance of prevailing wage requirements; and (iii) guarantee with said bond payment in all cases by the Contractor or by the Surety Company for all labor performed, material and supplies furnished with the entire Work in the Agreement. Said Bond shall remain in full force and effect during the entire period of all general guarantees given by the Contractor with the Agreement as called for in the Specifications and Agreement, except in cases where other bonds are specifically called for in the specifications and Agreement in connection with special guarantees.

Section 10. Payment Procedures.

- A. All payments under the Agreement shall be based on the unit prices set forth in Contractor's Schedule of Prices in the Contractor's bid submission or proposal (the "Unit Pricing"); attached hereto and incorporated and based on actual quantities supplied and installed/constructed by the Contractor in accordance with the terms and conditions herein, as determined and certified by the Village or its Engineer.
- B. The Owner does not guaranty the accuracy of the estimated units for completion of the Project Work. In no event shall Contractor be entitled to any additional compensation for lost profits and/or revenues due to estimated units exceeding actual units.
- C. Contractor shall provide monthly invoices to the Village throughout the Project Work. It shall be a condition precedent to the Village obligation to make a monthly progress payment that the Contractor shall have submitted to the Owner, on or before the first day of the month in which the Contractor is applying for a payment, the following documentation, which shall hereinafter collectively be referred to as the "Contractor's Progress Payment Documents".
 - 1. An itemized Application of Payment for operations completed in accordance with the schedule of values, supported by such data to substantiate the Contractor's right to payment as the Village and the Village's Engineer or Architect may require, such as copies of requisitions from material suppliers, and reflecting a 5% retainage until after final acceptance has been made by the Village. Payment shall be further reduced by such additional amounts that the Village determines for non-conforming work and unsettled claims.

Commented [KA1]: We will have to modify this depending on the pricing structure for a given project.

Commented [KA2]: If we have a different retainage amount in a given project, we will need to modify this.

2. A general Contractor's Sworn Statement in form customarily used by Chicago Title and Trust Company. ("Contractor's Sworn Statement").
 3. Current Partial Waivers of Lien from the Contractor and from all subcontractors of every tier and all of the material suppliers that supplied labor and/or material in connection with the Project covering such period.
 4. All of the Contractor's Progress Payment Documents shall be signed, sworn to and notarized.
 5. Such additional documentation and/or information requested by the Village and/or its Engineer or Architect relative to said payment.
- D. It shall be a condition precedent to any payment required by the Village hereunder that the Village and the Engineer or Architect has determined that the Project Work being invoiced is free from any defects and has been completed in strict compliance with the terms and conditions herein. The Village shall deduct from the final payment hereunder, amounts as determined for incomplete work, including but not limited to punch list work, and any required Restoration Work, and for any unsettled claims. Payments shall be further contingent upon the consent of the surety issuing the performance and payment bonds and/or other bond hereunder to said payment. Any amounts required to be withheld from said payment by the surety shall be withheld without any liability to the Village.
- E. Following completion of the Project Work, Contractor shall furnish the Village the following documents: (1) final lien waivers from (i) Contractor; (ii) all subcontractors of every tier that furnished labor and/or materials for the Project Work; and (iii) all suppliers that furnished materials in connection with the Project Work; all of which shall be signed and notarized; and (2) such additional documentation and/or information requested by the Village relative to said payment.
- F. In the event the Contractor, and or Village and/or Engineer is in receipt of any claim(s) for lien and/or other notice of any claim in connection with the Project, the amount claimed shall be held out from payment for a period of at least 120 days to determine whether said claimant files a lawsuit to foreclose or otherwise adjudicate its lien claim. In the event a lawsuit is in fact filed within the statutory period, the Village, in its sole discretion, may elect to (a) file an interpleader action and/or intervene in the lawsuit and deposit the amount in question with the Clerk of the Court or (b) continue to hold said disputed sum until the lawsuit has been fully adjudicated or settled, or (c) elect to pay said disputed sum to the Contractor after having first received such additional indemnification agreement(s) and surety bond(s) as are acceptable to the Village. In the event the lien claimant fails to file a lawsuit within the applicable statutory period, the Contractor shall either furnish a release or final waiver from said lien claimant or furnish the Village with an indemnification agreement and an additional

mechanic's lien bond in form approved by the Village issued by a surety company acceptable to the Village.

- G. Notwithstanding the foregoing, in no event shall the Village's acceptance of the Project Work, Contractor's Payment Request Documentation, Engineer's Certification, and/or the Village's payments to Contractor be deemed a waiver, express or implied, of any warranties and/or guaranties required herein.

Section 11. Compliance with Laws.

- A. The Contractor warrants it is familiar with and shall comply with Federal, State and local laws, statutes, ordinances, rules and regulations and the orders and decrees of any courts or administrative bodies or tribunals in any manner affecting the performance of the Agreement including without limitation Workers' Compensation Laws, minimum salary and wage statutes and regulations, laws with respect to permits and licenses and fees in connection therewith, laws regarding maximum working hours. No plea of misunderstanding or ignorance thereof will be considered.
- B. Whenever required, the Contractor or Subcontractor shall furnish the Owner with satisfactory proof of compliance with said Federal, State and local laws, statutes, ordinances, rules, regulations, orders, and decrees.
- C. Contractor shall carefully examine the Occupational Safety and health Act as issued by the Federal Register (OSHA), and the specific regulations governing procedures, techniques, safety precautions, equipment design, and the configuration of the same as required under this Act and shall comply with all terms of the Act and to perform and complete in a workmanlike manner all work required in full compliance with said Act.
- D. Contractor shall comply with all terms of the Illinois Preference Act and all terms of the Equal Employment Opportunity Clause of the Illinois Fair Employment Practices Commission.
- E. At all times Contractor shall remain in compliance with the Illinois Public Works Employment Discrimination Act (775 ILCS 10/1, et seq.) and the Illinois Human Rights Act (775 ILCS 5/2-101, et seq.) and in addition shall at all times comply with Section 2-105 of the Illinois Human Rights Act requiring a written sexual harassment policy as defined therein.
- F. Contractor agrees to maintain all records and documents for projects of the Owner in compliance with the Freedom of Information Act, 5 ILCS 140/1 et seq. In addition, Contractor shall produce, without cost to the Owner, records which are responsive to a request received by the Owner under the Freedom of Information Act so that the Owner may provide records to those requesting them within the time frames required. If additional time is necessary to compile records in response to a request, then Contractor shall so notify the Owner and

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

- G. The Contractor shall comply with and cause all subcontractors to comply with the requirements and provisions of the Illinois Substance Abuse Prevention on Public Works Projects Act (820 ILCS 265/1 et. seq.) (the "Act").
- H. All goods, equipment, materials, and all labor furnished by or on behalf of Contractor and/or Contractor's agents (defined below) shall comply with all applicable federal, state and local laws, rules, regulations, ordinances, statutes, and codes relative thereto including, but not limited to, the Illinois Department of Transportation (IDOT), Federal Occupational Safety and Health Act (OSHA), the Americans with Disabilities Act of 1990 as amended, the Illinois Department of Labor (IDOL), US Department of Labor (USDOL), the Human Rights Commission, the Illinois Department of Human Rights, EEOC, Environmental laws (defined below), and all Village of Bartlett Building Code (collectively, the "Laws"). To the fullest extent permitted by law, the Contractor shall indemnify, defend, and hold harmless the Village of Bartlett and its, officials, officers, agents, consultants from loss or damage, including but not limited to, attorney's fees, and other costs of defense by reason of actual or alleged violations of any of the Laws. In the event of any conflict and/or inconsistencies between any of the Laws, the most stringent Laws shall be controlling and applicable to the Project Work. This obligation shall survive the expiration and/or termination of this Agreement.
- I. The Village has determined that the Work provided for under this Agreement is subject to the Illinois Prevailing Wage Act, and the Contractor shall comply therewith and pay, and require every Subcontractor to pay, the prevailing rates of wages as established by the Illinois Department of Labor for each craft or type of work needed to execute this Agreement in accordance with 820 ILCS 130/0.01, *et seq.* Contractor shall prominently post the current schedule of prevailing wages at the Contract site and shall notify immediately in writing all of its Subcontractors, of all changes in the schedule of prevailing wages. Any increases in costs to Contractor due to changes in the prevailing rate of wages during the term of this Agreement shall be at the expense of the Contractor and not at the expense of the Village. Change orders shall, however, be computed using the prevailing wage rates applicable at the time the change order work is scheduled to be performed. Contractor shall be solely responsible to maintain accurate records as required by the Prevailing Wage Act and to obtain and furnish all such certified records to the Illinois Department of Labor as required by statute or regulation, including certified payroll records. Contractor shall be solely liable for paying the difference between prevailing wages and any wages

actually received by laborers, workmen, and/or mechanics engaged in the Work, and in every way defend and indemnify the Village against any claims arising under or related to the payment of wages in accordance with the Prevailing Wage Act. The Village agrees to notify the Contractor or Subcontractor of the pendency of any such claim, demand, lien, or suit. The Contractor is advised that the Illinois Department of Labor revises the prevailing wage rates. The Contractor and every Subcontractor has an obligation to check the Illinois Department of Labor's website for revisions to the prevailing wage rates. For information regarding current prevailing wage rates, please refer to the Illinois Department of Labor's website: <https://labor.illinois.gov/laws-rules/conmed/current-prevailing-rates.html>. The Contractor shall also: (1) insert into each subcontract and the project specifications for each subcontract, a written stipulation that the Subcontractor shall not pay less than the prevailing rate of wages to all laborers, workers, and mechanics performing work under that subcontract; and (2) require each subcontractor to insured into each lower-tiered subcontract and the project specifications for each lower-tiered subcontract, a stipulation that the subcontractor shall not pay less than the prevailing rate of wages to all laborers, workers, and mechanics performing work under that lower-tiered subcontract.

- J. By execution of this Agreement, the Contractor understands, represents and warrants to the Owner that the Contractor and its Subcontractors (for which the Subcontractor takes responsibility to insure that they comply with the above-mentioned Acts) are in compliance with all requirements provided by the Acts set forth in this Section and that they will remain in compliance for the entirety of the Work. A violation of any of the Acts set forth in this Article is cause for the immediate cancellation of the Agreement. However, any forbearance or delay by the Owner in canceling this Agreement shall not be considered as, and does not constitute, Owner's consent to such violation and a waiver of any rights the Owner may have, including without limitation, cancellation of this Agreement.

Section 12. Taxes. The Village is a Tax-Exempt Organization and is not subject to sales, consumer, use, and other similar taxes required by law. This exemption does not, however, apply to tools, machinery, equipment or other property leased by the Contractor, or to suppliers and materials which, even though they are consumed are not incorporated into the completed Project Work. The Contractor shall be responsible for and pay any and all applicable taxes, including sales and use taxes, on such leased tools, machinery, equipment or other property and upon such unincorporated supplies and materials. All such taxes are included in the unit pricing set forth in the Contractor's proposal.

Section 13. Investigations by Contractor. Contractor represents that Contractor has made such investigations as it deems necessary to perform the Project Work, including but not limited to, inspection of all Project Sites and represents and warrants that the Specifications, Plans, Drawings and other Contract Documents are adequate and the required result can be produced there under. No plea of ignorance of conditions that exist or of conditions or difficulties that may be encountered in the execution of the Project

Work under this Agreement as a result of failure to make the necessary investigations will be accepted as an excuse for any failure or omission on the part of Contractor to fulfill in every detail all of the requirements of this Agreement, or will be accepted as a basis for any claims whatsoever, for extra compensation. Contractor acknowledges and agrees that the provisions of the Public Construction Contract Act, 30 ILCS 557/1, *et seq.*, do not apply to this Agreement.

Section 14. Limitation of Liability. The Contractor agrees to waive any right which it may have to punitive, consequential, special, indirect, incidental, and/or exemplary damages against the Village, and agrees not to make any claim or demand for such damages against the Village.

Section 15. Assumption of Liability. To the fullest extent permitted by law, Contractor assumes liability for all injury to or death of any person or persons including employees of Contractor, any subcontractor of any tier, any supplier or any other person and assumes liability for all damage to property sustained by any person or persons occasioned by or in any way arising out of any work performed pursuant to this Agreement.

Section 16. Hazardous Substances.

- A. Contractor shall not cause or permit any Hazardous Substances to be brought upon, kept, stored or used in or about the Project Site, and/or any other property owned, leased, controlled or under the jurisdiction of the Village of Bartlett ("Village Property") by Contractor, and/or Contractors Agent (defined above). If the presence of Hazardous Substances brought upon, kept, stored or used in or about any of the Owner's Property by or on behalf of Contractor or Contractor's Agents in violation of this paragraph, results in contamination of the said Property, Contractor shall pay for all actual costs of clean up and shall indemnify, hold harmless and defend the Village and its employees, agents, consultants, officers, and officials from and against any and all claims, demands, expenses (including reasonable attorneys' fees), costs, fines, penalties and other liabilities of any and every kind and nature, including, but not limited to, costs and expenses incurred in connection with any clean-up, remediation, removal or restoration work required by any federal, state or local governmental authority because of the presence of any such Hazardous Substances on or about said Property.
- B. For purposes hereof, Hazardous Substances shall include, but not be limited to, substances defined as "hazardous substances," "toxic substances" in the federal Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended; the federal Hazardous Materials Transportation Act, as amended; and the federal Resource Conservation and Recovery Act, as amended ("RCRA"); those substances defined as "hazardous substances," "materials," or "wastes" under any Federal law or the law of the State of Illinois; and as such substances are defined in any regulations adopted and publications promulgated pursuant to said laws (collectively, "Environmental

Laws"). If Contractor's activities or the activities of any of Contractor's Agents violate or create a risk of violation of any Environmental Laws, Contractor shall cause such activities to cease immediately upon notice from the Village. Contractor shall immediately notify the Village both by telephone and in writing of any spill or unauthorized discharge of Hazardous Substances or of any condition constituting an "imminent hazard" under any Environmental Laws. Contractor's indemnification obligations and duties hereunder shall survive the termination and/or expiration of this Agreement.

Section 17. Delays in Project Work. Notwithstanding any provision herein to the contrary, the Contractor shall not be entitled to an increase in the Agreement Sum as a result of any delays in the progress of the Work. The Contractor's sole remedy for delay shall be an extension of time. If the Contractor, but for a delay not within the Contractor's control, would have completed the Work prior to the project completion date, the Contractor shall not be entitled to any recovery of damages arising out of any event of delay which prevented such early completion of the Work.

Section 18. Change Orders.

- A. Notwithstanding any provisions herein to the contrary, where proposed changes to the Project Work involve a modification to (i) the Agreement Sum; (ii) the Agreement Time, or (iii) material changes in the Work (i.e., other than minor field changes), a written Change Order shall be prepared by the Engineer or Architect. It shall be a condition precedent to the acceptance of any Change Order or any Series of Change Orders which involves an increase or decrease in the Agreement Sum of \$10,000 or more or changes the time of completion by a total of thirty (30) days or more, that the Village corporate authorities shall have first approved such written Change Order(s) and made the requisite determinations and findings in writing as required by 720 ILCS 5/33 E-9 (as amended). Other changes involving modifications to the Agreement Sum, Agreement Time or material change in the Work which will result in an increase or decrease of less than \$10,000 or extension of less than thirty (30) days to the Agreement Time shall be made by the Village Administrator.
- B. All change orders will be calculated based solely on Contractor's Unit Pricing set forth in Contractor's Proposal and actual revised quantities, regardless of whether the change order is for an increase or decrease in Project Work. No additional compensation will be allowed for change orders for additional work other than based on Contractor's Unit Pricing times the increased actual units constructed calculated by the Engineer or Architect, in that said Unit Pricing already reflects Contractor's overhead and profits.

Section 19. Relationship of the Parties. It is understood, acknowledged and agreed by the parties that the relationship of the Contractor to the Village arising out of this Agreement shall be that of an independent contractor. Neither Contractor, nor any employee or agent of Contractor, is an employee, partner, joint venturer, and/or agent of the Village, and therefore is not entitled to any benefits provided to employees of the Village. Contractor has no authority to employ/retain any person as an employee or agent

for or on behalf of the Village for any purpose. Neither Contractor nor any person engaging in any work or services related to this Agreement at the request or with the actual or implied consent of the Contractor may represent himself to others as an employee of the Village. Should any person indicate to the Contractor or any employee or agent of Contractor by written or oral communication, course of dealing or otherwise, that such person believes Contractor to be an employee or agent of the Village, Contractor shall use its best efforts to correct such belief. In ordering or accepting delivery of or paying for any goods or services, Contractor shall do so in Contractor's own business.

Section 20. Means and Methods. Contractor shall at all times have sole control over the manner, means and methods of performing the services required by this Agreement according to its own independent judgment. Contractor acknowledges and agrees that it will devote such time and resources as necessary to produce the contracted results. The Village, Engineer, or Architect shall not have control over, charge of, nor be responsible for, the construction means, methods, techniques, sequences of procedures, or for safety precautions and programs in connection with the Work since they are solely the Contractor's rights and responsibilities. The Contractor shall supervise and direct the Work efficiently with his, her or its best skill and attention; and the Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the work; and the Contractor shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury or loss to all employees on the subject site and all other persons who may be affected thereby.

Section 21. Removal and Disposal. The Contractor must remove and dispose of all construction or demolition debris materials, waste and soils at licensed facilities in accordance with applicable federal, state and local laws, including but not limited to the NEPA Act, with the most stringent and demanding requirements controlling.

Section 22. Work by Trade Unions. If the Work is to be performed by trade unions, the Contractor shall make all necessary arrangements to reconcile, without delay, damage, recourse, or cost to Owner, any conflict between the Contract Documents and any agreements or regulations of any kind at any time in force among members or councils which regulate or distinguish what activities shall not be included in the work of any particular trade. In case the progress of the Work is affected by any undue delay in furnishing or installing any items or materials or equipment required under the Contract Documents because of the conflict involving any such agreement or regulation, the Owner may require that other material or equipment of equal kind and quality be provided at no additional cost to the Owner.

- A. 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 Contractor'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 Contractor in its efforts to comply with such Acts and Rules and Regulations, the Contractor will promptly

so notify the Department and the contracting agency and will recruit employees from other sources when necessary to fulfill its obligations thereunder.

- B. That it will include verbatim or by reference the provisions of these clauses in every subcontracting awards under which any portion of the Agreement obligations are undertaken or assumed, so that each provision will be binding upon such Subcontractor. In the same manner as with other provisions of this Agreement, the Contractor 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 Contractor 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 subdivisions or municipal corporations.

Section 23. Guarantee.

- A. Except as otherwise specified, the contractor shall guarantee workmanship and materials for a period one (1) year for all items from date of final acceptance by the Village. The Work shall be left in perfect order at completion and acceptance. Neither the final payment nor termination of the guarantee period, nor any provision in the Agreement document shall relieve the Contractor of the responsibility for negligence, faulty materials, or workmanship within the extent and period provided by law, and upon written notice it shall remedy any defects due thereto, and shall pay all expenses for any damage to other work resulting therefrom.
- B. If the Drawings, Plans, and/or Specifications provide for methods of construction, installation, materials, etc., which the Contractor cannot guarantee for the indicated period, it shall be the responsibility of the Contractor to so inform the Owner in writing before submitting his bid. Otherwise, the Contractor shall be held responsible to provide the method of construction, installation, materials, etc., which will be guaranteed for the indicated period of time.

Section 24. General Provisions.

- A. Amendment. No amendment or modification to this Agreement shall be effective unless and until the amendment or modification is in writing, properly approved in accordance with applicable procedures, and executed.
- B. Assignment. This Agreement may not be assigned by the Contractor without the express prior written consent of the Village.
- C. Binding Effect. The terms of this Agreement will bind and inure to the benefit of the Parties to this Agreement and their agents, successors, and assigns.

D. Notice. All notices required or permitted to be given under this Agreement shall be in writing and shall be delivered (1) personally, (2) by a reputable overnight courier, (3) by certified mail, return receipt requested, and deposited in the U.S. Mail, postage prepaid, or (4) by email. Unless otherwise expressly provided in this Agreement, notices shall be deemed received upon the earlier of (a) actual receipt; (b) one business day after deposit with an overnight courier as evidenced by a receipt of deposit; (c) three business days following deposit in the U.S. mail, as evidenced by a return receipt; (d) time-stamp email was sent. By notice complying with the requirements of this Section, each Party shall have the right to change the address or the addressee, or both, for all future notices and communications to the other party, but no notice of a change of addressee or address shall be effective until actually received.

Notices and communications to the Village shall be addressed to, and delivered at, the following address:

Paula Schumacher
Village of Bartlett
228 S. Main Street
Bartlett, IL 60103
pschumacher@bartlett.il.gov

With a copy to:

Ancel Glink, P.C.
140 South Dearborn Street
Chicago, IL 60603
Attn: Kurt Asprooth
kasprooth@ancelglink.com

Notices and communications to the Contractor shall be addressed to, and delivered at, the following address:

L.C. United Painting Co. Inc
3525 Barbara Dr. Sterling Heights, MI 48310
Attn: Kanto Lucas

E. Third Party Beneficiary. No claim as a third party beneficiary under this Agreement by any person, firm, or corporation shall be made or be valid against the Village.

F. Governing Laws. This Agreement will be governed by, construed and enforced in accordance with the internal laws, but not the conflicts of laws rules, of the State of Illinois. Venue for any dispute arising out of relating to this Agreement will be in the Circuit Court of Cook County, Illinois. In any suit or action arising under this Agreement, the prevailing party shall be entitled to an award of reasonable attorney's fees and costs of litigation. No suit or action shall be maintained by the Contractor, its successors or assigns, against the Village on

any claim based upon or arising out of this Agreement or out of anything done in connection with this Agreement unless such action shall be commenced within one year of the voluntary or involuntary termination of this Agreement.

- G. Entire Agreement. This Agreement constitutes the entire agreement between the parties to this Agreement and supersedes all prior agreements and negotiations between the parties, whether written or oral relating to the subject matter of this Agreement.
- H. Waiver. Neither the Village nor the Contractor shall be under any obligation to exercise any of the rights granted to them in this Agreement except as it shall determine to be in its best interest from time to time. The failure of the Village or the Contractor to exercise at any time any such rights shall not be deemed or construed as a waiver of that right, nor shall the failure void or affect the Village's or the Contractor's right to enforce such rights or any other rights.
- I. Exhibits. Exhibit A is attached to this Agreement, and by this reference incorporated in and made a part of, this Agreement.
- J. Interpretation. This Agreement will be construed without regard to the identity of the Party which drafted its provisions. Any rule of construction that a document is to be construed against the drafting party will not be applicable to this Agreement.
- K. No Waiver of Immunities and/or Privileges. Nothing herein shall be construed as an express and/or implied waiver of any common law and/or statutory immunities and/or privileges of the Village of Bartlett and/or any of its officials, officers, employees, and/or agents as to any liability whatsoever; such immunities and privileges are expressly reserved.
- L. Counterparts. This Agreement may be executed in any number of counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument, and any signatures to counterparts may be delivered by facsimile or other electronic transmission and will have the same force and effect as original signatures.
- M. Severability. If any clause, phrase, provision or portion of this Agreement or the application thereof, to any person or circumstance, shall be invalid or unenforceable under applicable law, such event shall not affect, impair or render invalid or unenforceable the remainder of this Agreement, nor shall it affect the application of any other clause, phrase, provision or portion hereof to other persons or circumstances
- N. Authority. Each of the undersigned signing as an officer or agent on behalf of the respective party to this Agreement warrants that he or she holds such capacity as is specified beneath his or her name and further warrants that he or she is authorized to execute and effectuate this Agreement and that he or she does so voluntarily and in his or her official capacity.

O. Survival of Obligations. Except as otherwise provided, any obligations and duties which by their nature extend beyond the expiration or termination of this Agreement, including, without limitation, Sections pertaining to Indemnity shall survive the expiration of this Agreement.

IN WITNESS WHEREOF the Parties hereto have cause this Agreement to be executed, effective on the date first above written.

VILLAGE OF BARTLETT:

L.C. United Painting Co., Inc.

By: _____
Village President

By: _____
Title: _____

Attest:
By: _____
Village Clerk

Attest:

Title: _____

Date: _____

Date: _____