

**CONFIDENTIAL MEMORANDUM**

**TO:** Kerry Durkin  
**FR:** John Donahue  
**DATE:** February 11, 2014  
**RE:** **Reliable Glenwood annexation agreement**

Kerry:

I have performed an initial review of this annexation agreement. The draft annexation agreement attempts to lock in the Village without imposing many specifics on Reliable. Although this project could be a great benefit to the Village, the Village has quite a bit more due diligence to do on this. This memo identifies my overall impressions of the big picture items that need more work/discussion. I am sure that there will be many other details that need to be addressed as my knowledge of this project increases.

The attorney for the owner would like to establish a time frame for going forward. I think the next step would be to work with an environmental attorney on the environmental issues and possibly with an engineer to see what metrics the property should meet before it is donated to the Village. Please review the attached and let me know how you would like to proceed.

**1. Timing.** There are no details on the timing of the donation of property to the Village. Annexation Ordinances are good for 20 years. There should be some timing obligation on when the property donation is made. Recital C states that the donation obligation survives the termination of the annexation agreement which looks like they may be contemplating the donation occurring after the agreement expires. This may not be valid. An obligation to donate should occur within the period the annexation agreement is effective.

**2. Environmental standards.** The reclamation project is described in Recital D. It is going to be in compliance with IEPA industrial/commercial standards. Are these lesser standards good enough for the Village's intended recreational use? If so, are there any conditions or monitoring requirements/costs for the property that Glenwood will need to pay when it is the owner? Since it appears that the reclamation project may take decades, environmental laws could change drastically within that time and make the donated property useless to the Village or require the Village to expend a large amount of funds to make the property useable. The Village can't be expected to take the risk of future EPA/IEPA requirements. Accordingly, the Village should only be required to accept the donated property if, under any laws that are then in existence or anticipated to be passed at the time of the donation, the Village can use the property for its

desired purposes which should be spelled out in the agreement in as much detail as we can include.

**3. Release/Waiver.** Section 3.16 asks the Village to release Reliable Glenwood from all liability under all environmental laws and further provides that any and all claims the Village may have are waived. Reliable should remain responsible to the Village.

**4. Environmental expertise.** I think the Village should get help on how to deal with the environmental risks. Is there an IEPA process for closing the reclamation project which will result in a No Further Remediation Letter for the site or something similar? If so, the agreement should obligate them to meet these requirements. It will also be beneficial to have someone help the Village do what is necessary to obtain Bona Fide Prospective Purchaser status or innocent landowner status and to help the Village meet the All Appropriate Inquiries requirements. Any obligations/representations from Reliable that are needed should be written into the agreement. The Village may also want to make sure it is getting all the documents pertaining to the site to verify it is being operated properly? Section 3.4(b) provides that Reliable will reimburse the Villages costs for attorneys and other professionals.

**5. Condition of the property upon donation.** Recital B refers to the Village “improving the Donation Property.” The agreement is silent on what the condition of the property will be when it is donated. This puts the Village in the position of obligating itself to accept property without knowing what the condition of the property will be. Reliable should have some obligation to meet certain metrics before the Village is required to accept the property (i.e. compaction, topsoil, grading, grass etc.)

**6. Easement.** The donated property will be subject to a perpetual easement for stormwater detention, piping and outfall for the benefit of the adjoining property. I think the Village needs to know more about this and add more specificity and parameters in the agreement as to what the nature of these rights will be and how much they will impact the donated property.

**7. Confusing property references.** The agreement defines the Subject Property. But, the property being annexed and donated is only a part of the Subject Property. Yet, there is language in the annexation agreement referring to the Subject Property when parts of the Subject Property are not being annexed. This needs to be cleaned up as the annexation agreement cannot apply to property that is not being annexed.

**8. Testing Costs.** There is language on page 12 referring to the parties sharing testing costs while Reliable is operating the facility. Since Reliable is the operator this should be their cost. The sharing should apply only to testing demanded by the Village.

## Brenda McCowan

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**From:** John Donahue <JDonahue@rmcj.com>  
**Sent:** Wednesday, May 14, 2014 2:26 PM  
**To:** Brenda McCowan  
**Subject:** Re: Fwd: Annexation Agreement  
**Attachments:** CONFIDENTIAL MEMORANDUM 2-11-2014.docx

Brenda:

My memo on my initial review of the annexation is attached. My email to Kerry which supplements this memo is also being forwarded.

John Donahue

>>> John Donahue 5/13/2014 11:33 AM >>>

Hi Kerry:

The concept is a great opportunity but, the agreement needs a lot of work and the Village needs to do some due diligence. The current agreement is one sided and does not have any of the protections needed for the Village. At this point I think you need the Board to buy into the concept and determine what they want this to be because the end use may change the way they need to operate this. It is important to keep in mind that the owner of this property is not a big company that has money. Instead, it looks like they created an LLC to own just this property. The Village needs to go into this knowing that its counterparty to the transaction is a nothing more than a piece of paper with no assets. My summary of the key issues is as follows:

- 1) The Village can't just blindly accept their deed. What we have learned from Roll Services is that the Village needs to go through an All Appropriate Inquiry Process to do everything it can to become a protected purchaser.
- 2) What is currently there? They should give us their reports. But, we will need to have our own environmental engineer do an assessment as well. This will give the Village a baseline and will be needed as part of the All Appropriate Inquiries Process.
- 3) The Village needs to be able to monitor the operation of this landfill to confirm it meets acceptable standards and have contractual remedies if it is not being done right.
- 4) Add a contractual obligation for a tipping fee? To pay for the Village's costs.
- 5) Will the substandard industrial level of clean for which they want to operate this property allow the Village to use the property for its intended purposes when it gets title? How does it impact the Village's costs of ownership? We need to know this now.
- 6) What long term obligations to monitor and maintain this will be needed? Cost?
- 7) What IEPA approval of the closure of this landfill do we need before taking title to know the Village is good with the IEPA when it takes title?
- 8) The Village will need to have a mechanism to avoid taking title: (1) if the law/regulations change and the Village can no longer achieve its intended use of the property; (2) unknown problems are discovered; (3) the landfill is not operated correctly; (4) the costs to maintain this property significantly increase because of new regulatory requirements; (5) they can't get approval of the closure of the landfill, or (6) Village testing/due diligence before taking title shows the property is not satisfactory.

A copy of my prior memo on this is attached. Below are the contents of my e-mail of April 10th:

I received a telephone call from Rich Guerard, the atty. for Reliable Materials of Glenwood LLC regarding the annexation agreement for the mountain park. He indicated that his client would like the Village to come with some type of time frame for moving ahead with the annexation agreement and process. I advised him that I prepared a memorandum to the Village indicated a number of items that I felt the Village needed to do more due diligence on. (copy attached). He also indicated that they want to know what the Village ultimately wants to do with the property, because the ultimate use may affect how they operate the dumping operation on the site.

I think the first step would be or the Village to meet internally to see what we need to track down, identify all the Village's concerns, and determine what the Village wants this project to be. The ex-epa attorney could probably be helpful on these environmental issues. The Village will want to make all appropriate inquiries and doing everything else that may be necessary to be a bona-fide purchaser. I would like to see any environmental reports/studies they have for the current condition so we know what we are starting with. I would like to have some mechanism for the Village to know what is being dumped on the property, the type of any long term maintenance the Village may be on the hook for and some mechanism to avoid taking title if the dump is not correctly operated. I would like to know why they want to be out of the County. Some provision for a payment of a tipping fee may be something to demand. I would also like to know how the lesser industrial environmental standard that they will use to operate the dump impacts the Village's long term use of the property. I think the Village also needs some ability not to take title 15-20 years from now if tougher laws change the consequences of the Village taking over this property. Glenwood may be the only game in town for them and we may have quite a bit of bargaining power.

The next step would be to then meet with the owners to go through the issues with them. We may want have the ex-EPA attorney sit in with us on this as well. The current draft annexation agreement does not meet the Village's needs and is only a starting point.

Let me know how you would like to proceed.

>>> Kerry Durkin <kdurkin@villageofglenwood.com> 5/13/2014 9:30 AM >>>  
This agreement is on the agenda next week  
Any issues

Sent from my iPad

Begin forwarded message:

**From:** Bill Haworth <weh@grp7..com>  
**Date:** May 13, 2014 at 9:00:46 AM CDT  
**To:** "kdurkin@villageofglenwood.com" <kdurkin@villageofglenwood.com>  
**Subject: Annexation Agreement**

Hi Kerry

I wanted to check on when you would like to get together on any questions regarding the annexation agreement draft or meet with your Board?

Bill

Bill Haworth

Office: 773-254-1121

Cell: 847-404-5555

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Prepared by and After  
Recording Return to:

This Space Reserved for Recorder's use only

## ANNEXATION AGREEMENT

### I. INTRODUCTION

**THIS ANNEXATION AGREEMENT** (the "Agreement") is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2014, (hereafter the "Effective Date") by and between the Village of Glenwood, an Illinois municipal corporation ("**Village**") and Reliable Materials of Glenwood, LLC, an Illinois limited liability company ("**Reliable Glenwood**"). The Village and Reliable Glenwood are sometimes referred to herein individually as "Party" and jointly as "Parties."

### II. RECITALS

A. Reliable Glenwood is the assignee of the contract purchaser of the Subject Property (as hereinafter defined), pursuant to a certain Real Estate Sale Contract dated November \_\_\_\_, 2013, by and between Material Service Corporation, a Delaware corporation ("**Contract Seller**") and Reliable Glenwood (collectively, the "**Real Estate Contract**"). Pursuant to the Real Estate Contract, Reliable Glenwood shall take title to approximately 130 acres of property, legally described in **EXHIBIT A** attached hereto and incorporated herein by reference (the "**Reliable Property**" or "**Subject Property**"). The Annexation Property (as hereinafter defined and legally described on **EXHIBIT B**), which is part of the Subject Property, is contiguous to the corporate limits of the Village, is not within the limits of any corporate municipality, and has no electors residing thereon. The "Effective Date" herein shall be the later of the dates of (1) upon the full execution of this Agreement by the parties; or 2) upon which Reliable Glenwood takes title to and is the owner of the Subject Property

B. Upon completion of the Reclamation Operation on the Subject Property, Reliable Glenwood shall be deeding to the Village a parcel of approximately 87 acres, more or less, that is legally described in **EXHIBIT B** attached hereto (the "**Donation Property**"). The Village anticipates improving the Donation Property for recreation purposes, with one or more municipal buildings or facilities and any such additional uses the Village determines is in the best interest of the Village.

C. As a condition of its purchase of the Subject Property, Reliable Glenwood has agreed with the Contract Seller to donate the Donation Property (as hereinafter defined) to the Village upon completion of the reclamation of the property from previous uses, which is located on the Subject

Property (the “**Reclamation Project**”), subject to a perpetual easement over and across the Donation Property for adequate storm water detention, for storm water piping and for storm water outfall and the continuation of the neighboring operations in favor of the adjoining property owned by Contract Seller according to the terms and conditions of this Agreement (Exhibit A) The parties agree that the donation obligation set forth in this Recital shall survive the expiration of this Agreement.

D. Reliable Glenwood intends to reclaim the Reliable Property through the receipt of clean soil which meets the Illinois Environmental Protection Agency inhalation and ingestion standards for Industrial/ Commercial Properties set forth in Title 35 of the Illinois Administrative Code, part 742 Tiered Approach, Appendix B (industrial commercial) (“TACO B Standards”), as now existing or hereafter amended. Clean soil may include incidental amounts of stone, rock, gravel, concrete, asphalt, roots, and other vegetation. [415 ILCS 5/3.160(b)] (“Reclamation Operations”). Reliable Glenwood intends to also operate a clean fill, Asphalt Recycling, Storage and Sales Operation; of Asphalt Shingles (RAS) in conformance with a permit issued by the IEPA under sections 22.38 or 22.54 of the Illinois Environmental Protection Act; a Concrete Recycling, Storage and Sales Operation; and a Feedstock Recycling, Storage and Sales Operation on the Subject Property which may include farming and composting as a part of the Reclamation Project (the “Recycling Operations”).

E. The Village is in favor of reclamation and redevelopment of the Subject Property provided the reclamation is done in a manner that conforms to the terms and conditions of this Agreement.

F. The Corporate Authorities desire to annex the Annexation Property and facilitate development of the Subject Property pursuant to the terms and conditions of this Agreement, and have adopted an ordinance pursuant to 65 ILCS 5/7-1-13.

G. Reliable Glenwood also desires that the Annexation Property be annexed to the Village pursuant to the terms and conditions of this Agreement.

H. The Corporate Authorities have determined that the contemplated development of and uses for the Subject Property meet the Village standards therefor as set forth in the Village zoning ordinances, as detailed in this Agreement, and have made the following findings regarding the same:

(1) The development of the Subject Property is intended to encourage the beneficial reclamation of property and provide additional recreational opportunities for its residents and to encourage better design, provision of amenities of open space and the efficient use of public services. The intensity and profile of the development of the Subject Property, in conformance with the standards and terms set forth herein, are compatible with all adjacent uses.

(2) That the contemplated uses are necessary or desirable to provide a service or a facility which is in the interest of public convenience and each contributes to the general welfare of the neighborhood or community; and

(3) That the contemplated uses will not under the circumstances, the standards and terms set forth herein be detrimental to the health, safety, morals or general welfare of persons residing or working in the vicinity or be injurious to property values or improvements in the vicinity.

I. The Corporate Authorities have further determined that the contemplated development of the Subject Property in accordance with the standards and terms set forth herein:

(1) Conforms to comprehensive planning principles and the general planning policies and precedents of the Village, particularly with reference to the following:

- (a) Land use policies;
- (b) Land use intensity;
- (c) Housing goals;
- (d) Traffic impact and parking;
- (e) Impact on schools, public utilities and facilities;
- (f) The character of the Village and the specific neighborhood; and
- (g) The conservation and enhancement of the tax base and economic well-being of the Village.

(2) Each of the contemplated uses for the Annexation Property is a permitted or special use in the "M-2" Manufacturing zoning classification.

(3) The contemplated development and operation of the Subject Property is so designed, located and contemplated to be operated and maintained that the public health, safety and welfare will not be endangered or detrimentally affected.

(4) The contemplated development and operation of the Subject Property, including the Recycling Operations, Reclamation Operations and maintenance and storage facilities thereunder, shall not substantially lessen or impede the suitability for the permitted uses and development of, or be injurious to the use and enjoyment of, or substantially diminish or impair the value of, or be incompatible with, other property in the immediate vicinity.

(5) The contemplated development and operation of the Subject Property makes adequate provision for parking and ingress and egress and is so designed as to minimize traffic congestion and hazards in the public street, and in particular to minimize delays or congestion due to truck traffic from the Subject Property.

(6) Common open space in the development of the Subject Property is not at issue.

J. The Corporate Authorities have found that the contemplated rezoning of the Annexation Property to the amended "M-2" Manufacturing zoning classification meets all appropriate standards of the Village.

K. The Corporate Authorities, after due and careful consideration, have concluded and hereby affirm that the annexation and rezoning of the Annexation Property to the Village on the terms and conditions as herein set forth, will further enable the Village to control the development of the area and serve the best interests of the Village.

L. The Reliable Glenwood has expended substantial sums of money and has materially altered its position with respect to the use and development of the Subject Property in reliance upon the execution of this Agreement and performance of its terms and provisions by the Village.

M. In accordance with the powers granted to the Village by the provisions of the Illinois Municipal Code, 65 ILCS 5/11-15.1-1 through 15.1-5, inclusive, relating to annexation agreements, Village and Reliable Glenwood wish to enter into a binding agreement with respect to the annexation of the Annexation Property to the Village, respectively, text amendment to the "M-2" Manufacturing zoning classification and to provide for various other matters related directly or indirectly to such disconnection, annexation, re-zoning and the development of the Subject Property as authorized by statute. Said agreement shall be in substance and in form substantially the same as this Agreement. The Village desires and will annex the property legally described in **EXHIBIT B** attached hereto (the "Annexation Property"), pursuant to 65 ILCS 5/7-1-13.

O. The Village, Reliable Glenwood and Contract Seller desire to annex the Annexation Property, and the Reliable Glenwood has executed a Petition for Annexation pursuant to 65 ILCS 5/7-1-8.

P. The Parties agree that the Annexation Property should be classified in the "M-2" Manufacturing zoning classification, as that classification is defined on the Effective Date, with a and subject to the terms set forth herein.

N. The Parties desire that the Subject Property be developed and operated in a manner proposed consistent with the terms of this Agreement.

O. In reliance upon the development of the Subject Property in a manner consistent with the terms of this Agreement, Village and Reliable Glenwood and Contract Seller have or will execute all petitions and other documents that are necessary to accomplish the disconnection and annexation of the Annexation Property to the Village and the text amendment to the "M-2" Manufacturing zoning classification as detailed below.

P. It is the desire of the Parties that the development of the Subject Property proceed as soon as possible, subject to the ordinances, codes and regulations as amended by the Village.

S. On \_\_\_\_\_, 2013, the Zoning Board of Appeals/Planning Commission of the Village of Glenwood (“ZBA/PC”), being the body designated by the Village corporate authorities to hold public hearings, held a public hearing pursuant to published legal notice thereof relating to the text amendment to the “M-2” Manufacturing zoning classification, and the ZBA/PC submitted to the Village President and Board of Trustees its recommendation to approve the text amendment, all as required by the provisions of Village ordinances and the statutes of the State of Illinois. The text amendment to the “M-2” Manufacturing zoning classification shall be effective upon the passage of the ordinance by the Village and must be in effect before the annexation and rezoning of the Annexation Property.

T. On \_\_\_\_\_, 2013, the ZBA/PC, being the body designated by the Village corporate authorities to hold public hearings, held a public hearing pursuant to published legal notice thereof relating to Reliable Glenwood’s application to rezone the Annexation Property to the “M-2” Manufacturing zoning classification, contingent on the disconnection and annexation, and the ZBA/PC submitted to the Village President and Board of Trustees its recommendation to approve the rezoning, all as required by the provisions of Village ordinances and the statutes of the State of Illinois.

U. On \_\_\_\_\_, 2013, pursuant to legal notice, the Village Board held a public hearing on this proposed Agreement all as required by the provisions of the statutes of the State of Illinois by a vote of two-thirds (2/3) or greater of the corporate authorities then holding public office, directed the Village President to execute, and the Village Clerk to attest to, this Agreement on behalf of the Village.

NOW, THEREFORE, in consideration of the mutual covenants, agreements, and conditions herein contained, and by authority of and in accordance with the aforesaid statutes of the State of Illinois, the Parties hereto agree as follows:

### **III. TERMS and CONDITIONS**

#### **3.1. Recitals**

The foregoing recitals are material to this Agreement and are incorporated herein as though fully set forth in this Paragraph 3.1. The Parties hereby acknowledge the truth and accuracy of said recitals.

#### **3.2. Compliance and Validity**

It is expressly understood that this Agreement, in its entirety, shall be null, void and of no force and effect unless Reliable Glenwood shall close upon the purchase of the Subject Property and become the record title Reliable Glenwood of the Property and the Annexation Property is zoned and classified as hereinafter provided and unless the Village executes this Agreement and adopts the necessary ordinances as hereinafter defined.

### 3.3. Annexation and Zoning

#### a. Contingencies; Village Ordinances

This Agreement and Reliable Glenwood's obligation to acquire the Subject Property are contingent upon: (1) the Village duly passing and adopting the following ordinances, which shall become effective no later than upon Reliable Glenwood's acquisition of the Subject Property: (a) a Village Ordinance adopting the text amendment to the "M-2" Manufacturing zoning classification of the Village's Zoning Ordinance allowing all permitted and special uses as detailed in **EXHIBIT D** attached hereto; (b) a Village Ordinance authorizing and directing execution of this Agreement; (c) a Village Ordinance to Annex the Annexation Property pursuant to a petition under 65 ILCS 5/7-1-8; (d) a Village Ordinance pursuant to 65 ILCS 5/7-1-13; and (e) a Village Ordinance rezoning the Annexation Property under the amended "M-2" Manufacturing zoning classification. Copies of the proposed ordinances are attached hereto as **EXHIBIT E**.

#### b.. Specific Zoning for the Annexation Property

The following shall apply to the uses on the Annexation Property, subject to the standards and terms set forth herein:

- (1) **(Make reference to any specific relief or restrictions needed regarding other Village Ordinances)**
- (2)

Consistent with Paragraph 3.10, during the term of this Agreement, no other restrictions, performance standards, bulk regulations or other design or other standards shall be imposed on the Annexation Property, Reclamation Operations, Recycling Operations, and maintenance and storage facilities except as set forth herein. To the extent there is any difference between the Village's ordinances and the standards and terms set forth herein, the standards and terms set forth herein shall control. During the term of this Agreement, the Village shall not re-zone the Annexation Property or amend the "M-2" Manufacturing zoning classification in contravention of the permitted and special uses, the Reclamation Operations, Recycling Operations, and maintenance and storage facilities contemplated herein.

### 3.4. Fees and Donations

As a condition of this Agreement, Reliable Glenwood shall provide cash payments, for the benefit of the Village or other applicable governmental entity, as follows:

#### a. Building Permit, Water and Sewer Service Connection, Engineering Review, Legal Review, and other Fees and Costs

Building permit fees, water and sanitary sewer service connection fees, engineering and legal consulting fees, and all other applicable fees and costs shall be payable in accordance with the fees and costs required under Village ordinances existing as of the Effective Date. Notwithstanding the foregoing sentence, for a period from the Effective Date until December 31, 2033 (“**Permit Period**”), Reliable Glenwood shall only be required to obtain earthmoving permits for the construction and placement of perimeter berms around the Subject Property and shall not be required to obtain earthmoving permits for any other of the Reliable Glenwood’s operations on the Subject Property. For the Permit Period, the Village shall waive all permit, review, occupancy or other fees or charges of any kind or nature for the Subject Property, except professional engineering review fees. However, during the term of this Agreement, if any such fees generally applicable to all properties in the Village or to any particular type of work are reduced, the fees applicable to the Subject Property and to the type of work being done on the Subject Property shall be reduced correspondingly. Notwithstanding anything contained in this Agreement to the contrary, no business license or other license shall have to be obtained from the Village nor any fee, charge, tax or assessment paid to the Village, except as specifically provided under Section 3.13 (Fees and Royalties due Village) below, as a condition to lawfully conduct or operate, as applicable, any Reclamation Operations, Recycling Operations, and maintenance and storage facilities on the Subject Property. Any portion of the Subject Property not being used for Reclamation Operations, Recycling Operations, and maintenance and storage facilities, if developed, will comply with all applicable subdivision and building ordinances in effect as of the Effective Date. Except as detailed in this Agreement, no other fees, charges, royalties, taxes or assessments of any kind or nature shall be imposed on the Reclamation Operations, Recycling Operations, and maintenance and storage facilities conducted on the Subject Property.

b. **Cash and Land Donations**

In accordance with the Real Estate Contract between the Contract Seller and Reliable Glenwood, Reliable Glenwood shall reimburse the Village for all reasonable costs and expenses of all attorneys and other consultants (including engineers and other professionals) incurred in the review and preparation of this Agreement and any other documents submitted by Reliable Glenwood arising out of or related to the development of the Subject Property. There are no other independent cash or land donations other than those agreed to under this Agreement. Reliable Glenwood shall take such reasonable steps as may be necessary to enforce the reimbursement provision set forth in the Real Estate Contract.

3.5. **Engineering Plans; Preliminary/Final Plats; Site Plan Approval; and Landscaping Plans**

Following the Effective Date of this Agreement, Reliable Glenwood shall submit final engineering plans in accordance with the provisions of this Agreement for development of the Subject Property. Such engineering plans shall include engineering plans for the related utility improvements, road improvements and any other on-site and off-site improvements necessary to service that portion of

the Subject Property being developed, if any, and for the operations contemplated by this Agreement (the “**Final Engineering Plans**”). The Final Engineering Plans may be modified from time to time by the mutual agreement of the parties.

### **3.6. Public Improvements**

#### a. Public Improvements

In the development of the Subject Property, except for the Donation Property after donation to the Village by Reliable Glenwood, Reliable Glenwood shall be responsible for the construction and installation of any public improvements and utilities, as are needed to adequately service the Subject Property. The following terms relating to improvements shall only apply if Reliable Glenwood is required to make such improvements as detailed in the final engineering plan for the development of the Subject Property. Utilities and roads are already in place. Unless specifically required by the final engineering plan, no further work or obligations are necessary or owing in regard to utilities and roads. Reliable Glenwood shall also be responsible for the following:

#### 1. Roadways, Right-of-Way, and Pavement Width

Except as otherwise provided under this Agreement, Reliable Glenwood shall construct all streets, and other public improvements, if any, required in the site engineering plans for the Subject Property in accordance with applicable Village ordinances as in effect on the Effective Date.

#### 2. Utilities

Except as otherwise provided under this Agreement, all utilities serving the Subject Property, including sanitary sewers, water mains, electric, gas, telephone, and cable television, if any, shall be installed according to Final Engineering plans.

#### 3. Sewerage Treatment

Reliable Glenwood shall be permitted to install and use portable toilets with respect to Reclamation Operations, Recycling Operations, and maintenance and storage facilities.

#### 4. Water Supply

Potable water supply services shall be provided to the Subject Property by the Village of Glenwood. At its sole cost and expense, Reliable Glenwood shall connect to the existing water mains at a point or points as are reasonably determined and approved by the Village Engineer, if needed. Any connections made by Reliable Glenwood shall be made in a manner reasonably approved by the Village Engineer and any

other applicable governmental bodies and agencies having jurisdiction over the Subject Property.

5. Storm Water

The Subject Property currently provides, and shall continue to provide, the storm water detention capacity required by the Subject Property. The Village shall cooperate with the Reliable Glenwood in petitioning for and new or amendments to the current NPDES Permit for the storm water discharge from the Subject to the properties owned by the Village located to the south of the Subject Property (the "Village Property"). The Village further agrees to cooperate with Reliable Glenwood and, if reasonably necessary, join in petitioning for new NPDES permits for the Subject Property and Village Property if required. The cost of preparing all said petitions shall be borne by the Reliable Glenwood.

**3.7 Village Property**

a. Site Preparation of Donation Property

Reliable Glenwood shall, after the Donation Property site plan is finalized, be responsible for for the placement and grading of sufficient suitable fill to render the Donation Property suitable for recreational development as contemplated in this Agreement. The Reliable Glenwood shall prepare the Reclamation Project in accordance with the Approved Plan and will deliver the Reclamation Property to the Village grade within one foot of the grades on grading plan of the Final Engineering. The Final Engineering will not include fine grading by the Reliable Glenwood.

b. Conveyance of Village Property

The Village shall also take title to the Village Property, subject to the following exception, which shall be contained in transferring deed or other instrument: "By acceptance and recording of this Deed, Grantee covenants and agrees for itself, its successors and assigns that \_\_\_\_\_; and this covenant shall be construed as a covenant running with the land and shall be binding upon any successor-in-interest of the Grantee.

c. Easements and Access

The Village shall, upon the request of the Reliable Glenwood, grant to Reliable Glenwood, utility companies designated by Reliable Glenwood or any other municipal corporation or public body which may provide utilities to any part of the Subject Property, such construction and maintenance utility easements over, under, across, or through property owned or controlled by the Village, as are necessary or appropriate for the development of the Subject Property in accordance with the provisions of this Agreement and in such locations as shall

be reasonably mutually agreed; provided, however, that Reliable Glenwood shall pay all costs associated therewith. The Village shall not, however, charge any fee or expense for granting such easements.

### **3.8. Signs**

Any sign or monument not in conformance with Village ordinances must be presented to the Village's Planning and Zoning Commission. The Commission shall make a recommendation to the Village Board to approve or deny the Reliable Glenwood's request. Action by the Village Board shall be taken on the Commission's recommendation.

### **3.9. Uses And Conditions of Use**

#### **a. Uses**

The Reliable Glenwood shall diligently pursue the reclamation of the Donation Property. In conjunction with the reclamation of the Subject Property, the Annexation Property shall be zoned "M-2" "Manufacturing" and the following uses (not to the exclusion of any other uses permitted under the Village zoning ordinance) are hereby permitted on the Annexation Property until such time as they interfere in any way with the efficient and expeditious reclamation of the Reliable Property or until such time as they would interfere with the turnover of the Donation Property to the Village: Reclamation Operations, Recycling Operations, and maintenance and storage facilities. A special use shall be for facilities operating in conformance with a permit issued by the IEPA under sections 22.38 or 22.54 of the Illinois Environmental Protection Act (415 ILCS 5/22.38 and 22.54). The following uses shall not be permitted: recycling facilities that require local siting approval under 415 ILCS 5/39.2 or other pollution control facilities; asphalt plants; fueling stations.

#### **b. Conditions of Uses**

The following Conditions of Uses shall apply:

##### **1. Environmental Standards**

The Village and the Reliable Glenwood agree that the Reclamation Project shall be conducted in a manner that is protective of the public health, safety, welfare; groundwater resources; and, the environment as determined by statutes, rules and regulation set by the IEPA. The Reliable Glenwood shall comply at all times with all laws, ordinances, rules and regulations of any Federal or State government agency with jurisdiction, as such may now exist or exist in the future, relating to the development, operation, monitoring and closure of the Reclamation Project.

##### **(a). Fill Acceptability and Load Checking**

(1). Reliable Glenwood shall only accept clean soil which meets the Illinois Environmental Protection Agency inhalation and ingestion standards for Industrial/ Commercial Properties set forth in Title 35 of the Illinois Administrative Code, part 742 Tiered Approach, Appendix B (industrial commercial) ("TACO B Standards"), as now existing or hereafter amended. Clean soil may include incidental amounts of stone, rock, gravel, concrete, asphalt, roots, and other vegetation. [415 ILCS 5/3.160(b)]

(2). Reliable Glenwood shall implement a load checking program designed to detect and reject unacceptable fill material for the Restoration Project using the EDR and IEPA websites. Reliable Glenwood's inspector will also use an instrument with a photo ionization detector to screen each incoming load of fill material as it arrives on site.

(b). Records

Reliable Glenwood shall maintain all records as required by the IEPA or other state law. Records maintained by Reliable Glenwood and the Village hereunder shall be made available to both parties upon written request, within five (5) days of receiving the written request.

(c). Testing of Source of Material

(1). As a part of the load checking program, for all contracts anticipated to generate 50,000 cubic yards or more or import material, or for those source locations where, on the basis of public information, reasonable cause exists for further inquiry into whether the material meets the inhalation and ingestion standards set forth in Title 35 of the Illinois Administrative Code, Part 742, Tiered Approach, Appendix B (industrial commercial) ("TACO B Standards"), the Village may request to the contractor or customer of the material to provide information and documentation to the Village regarding the chemical and physical properties of the material. Such information may include sample testing of the geographic source location. Should the sample fail to meet the TACO B Standards, no material from the geographic source location shall be accepted. Should the contractor or customer refuse any requested testing of the geographic source location requested under the subparagraph; then the Village may, upon receipt of the material from that location at the Facility, test one or more of the loads received at the Reclamation Operations from that geographic source location. If any of the loads received from that geographic source location fail to meet the TACO

B Standards, then Reliable Glenwood and the Village shall reject any further loads from that geographic source location. The Reliable Glenwood is under no obligation to remove any such materials that were used in the Reclamation Operations that later are determined not to meet the TACO B Standards.

(2). Until the Reclamation Operations cease, the Reliable Glenwood and Village agree to annually (on a calendar year basis from the Effective Date) share the cost of any such testing as is allowed under this Agreement. Reliable Glenwood shall pay ½ of the expense for each test detailed in Paragraph 3.9(B)(3)(c)(2) up to \$10,000 for any calendar year. Once the Reliable Glenwood has reached its \$10,000 obligation for testing in any given year, the Village may continue to conduct tests as allowed under this Agreement at the Village's expense.

## 2. **Operational Standards**

All operational or performance standards for Reclamation Operations, Recycling Operations and maintenance and storage facilities shall be set and governed only by IEPA and state law in effect as of the Effective Date or thereafter amended.

### (a). Hours of Operation

Provided that Reliable Glenwood complies with the applicable performance standards and all rules, regulations and requirements of state law, hours of operation shall not be limited.

### (b). Dust Control

The Reliable Glenwood shall implement methods for controlling dust to prevent wind dispersal of particulate matter in accordance with applicable State of Illinois performance standards.

### (c). Noise Control

The Reliable Glenwood shall design, construct and operate the Reclamation Operations to minimize the level of equipment noise audible outside of the Reclamation Operations and shall not cause or contribute to a violation of the State of Illinois' noise regulations or 415 ILCS 5/24.

### (d). Mud Tracking

The Reliable Glenwood shall prevent tracking of mud by hauling vehicles

entering onto public roadways and keep public roadways free from mud, loose gravel, and any other spillage of any material leaving the Site.

(e). Placement of Soil Material

The Reliable Glenwood shall place the soil material in accordance with the geotechnical guidelines in **EXHIBIT F**. The Reliable Glenwood shall submit an annual report to the Village documenting compliance with the geotechnical guidelines and the location of filling operations over the past year.

**3.10. Village Ordinances**

a. Reliable Glenwood agrees that, in its development of the Subject Property (but specifically excluding therefrom its Reclamation Operations, Recycling Operations and maintenance and storage facilities), it shall comply with all ordinances, codes and regulations of the Village in effect on the Effective Date as modified by this Agreement, including but not limited to the Village Zoning and Subdivision Ordinances. For the term of this Agreement, the Village agrees that the Annexation Property shall not be subject to any new ordinances, codes or regulations, or to any amendments to existing ordinances, codes or regulations that are more restrictive than those applicable to the Annexation Property described herein or currently existing.

b. To the extent that any new or amended ordinances, codes and regulations are less restrictive than those applicable to the Annexation Property pursuant to this Agreement, Reliable Glenwood may elect to proceed with the development or construction of improvements based upon the less restrictive ordinances, codes and regulations.

c. The Village also acknowledges that all obligations and duties, whether monetary or otherwise, under any impact fees, exactions for development or other fees other than those in this this Agreement have been fulfilled. The Village acknowledges, waives and releases Contract Seller, Reliable Glenwood and the Subject Property from all claims or causes of action of any kind or nature arising or related to such fees.

**3.11. Building Permits**

The Village agrees to issue within a reasonable time after receipt of application therefor, permits for the construction of any buildings or improvements of buildings or issue a letter of denial within said period of time informing Reliable Glenwood as to where the application does not conform to the provisions of this Agreement or Village ordinances and quoting the section of the Village code, ordinance, or this Agreement relied upon, all in accordance with the Village Building Code and Zoning Ordinance. Fees for such permits are subject to Paragraph 3.4.

**3.12. Stop Work Orders**

Subject to the Village Building Code, a stop work order issued by the Village directing work stoppage on any building or other building improvement shall specify the section of the ordinance, code or regulation, or this Agreement allegedly violated and shall give Reliable Glenwood thirty (30) days in which to cure or diligently commence cure of such violation. Upon correction of any such violation to the satisfaction of the Village, work on any building or improvement subject to the stop work order may recommence.

**3.13. Fees and Royalties Due Village**

In order to off-set the costs to be incurred by the Village from the Reclamation Operations; the Reliable Glenwood shall pay to the Village four percent (4%) of all gross amounts of clean soil material received by Reliable Glenwood for import to the Subject Property. Reliable Glenwood shall provide to the Village quarterly reports and a yearly audited statement of amounts received for the receipt of materials. The payment detailed above shall be made by the 15<sup>th</sup> day after the end of any given quarter. Other than as specifically provided in this Paragraph 3.15, no other fee, charge, royalty, tax or other assessment shall be charged, liened or assessed with respect to any Reclamation Operations, Recycling Operations, and maintenance and storage facilities or other materials imported on to the Subject Property.

**3.14. Reimbursement of Village Costs**

In accordance with the Village Zoning Ordinance, but excluding any amounts to be reimbursed or paid by the Contract Seller under this Agreement and as otherwise waived herein, including, without limitation, any amounts payable pursuant to Paragraph 3.4 herein, Reliable Glenwood agrees to reimburse the Village for reasonable attorneys' fees and costs and planning consultants' and engineering costs and staff time incurred by the Village in connection with the future development of the Reclamation Property in accordance with the Final Engineering Plans during the period of the Reliable Glenwood's Reclamation Operations, and construction of any improvements thereon, and in the enforcement of any of the terms of this Agreement upon default by Reliable Glenwood.

**3.15. Agreement to Prevail over Codes and Ordinances**

In the event of any conflict between this Agreement and any codes, ordinances, rules or regulations, of the Village, the provisions of this Agreement shall prevail to the extent of any such conflict or inconsistency.

**3.16. Donation of Donation Property and Retained Property**

a. Upon completion of the Reclamation Operations in accordance with **EXHIBIT G**, Reliable Glenwood will donate the Donation Property, as legally described in **EXHIBIT C**, to the Village. Reliable Glenwood will donate the Donation Property and the Village shall accept the Donation Property strictly "AS IS" "WHERE IS" basis as of the donation date. RELIABLE GLENWOOD MAKES NO WARRANTY OR REPRESENTATION,

EXPRESS OR IMPLIED, OR ARISING BY OPERATION OF LAW, INCLUDING, BUT IN NO WAY LIMITED TO, ANY WARRANTY OR REPRESENTATION REGARDING OR CONCERNING QUANTITY, QUALITY, CONDITION, HABITABILITY, MERCHANTABILITY, SUITABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF THE DONATION PROPERTY, OR ANY SOIL CONDITIONS OR BEDROCK RELATED THERETO.

VILLAGE SPECIFICALLY ACKNOWLEDGES THAT VILLAGE IS NOT RELYING ON (AND RELIABLE GLENWOOD HEREBY DISCLAIMS AND RENOUNCES) ANY REPRESENTATIONS OR WARRANTIES MADE BY OR ON BEHALF OF RELIABLE GLENWOOD OF ANY KIND OR NATURE WHATSOEVER, EXCEPT AS IS OTHERWISE EXPRESSLY AND SPECIFICALLY PROVIDED IN THIS AGREEMENT, AND SUBJECT TO RELIABLE GLENWOOD'S OBLIGATIONS UNDER THIS AGREEMENT. EXCEPT FOR OR IN RELATION TO ANY BREACH OR VIOLATION OF RELIABLE GLENWOOD'S OBLIGATIONS UNDER THIS AGREEMENT, VILLAGE, FOR VILLAGE AND VILLAGE'S SUCCESSORS AND ASSIGNS, SPECIFICALLY RELEASES RELIABLE GLENWOOD FROM AND WAIVES ANY AND ALL CLAIMS AND CAUSES OF ACTION VILLAGE MAY HAVE BASED UPON, IN CONNECTION WITH OR ARISING OUT OF ANY FEDERAL, STATE OR LOCAL STATUTES, REGULATIONS, OR ORDINANCES CONCERNING POLLUTION OR PROTECTION OF THE ENVIRONMENT, INCLUDING WITHOUT LIMITATION ALL THOSE RELATING TO THE PRESENCE, USE, PRODUCTION, GENERATION, HANDLING, TRANSPORTATION, TREATMENT, STORAGE, DISPOSAL, DISTRIBUTION, LABELING, TESTING, PROCESSING, DISCHARGING, RELEASE, THREATENED RELEASE, CONTROL, OR CLEANUP OF ANY HAZARDOUS MATERIALS (collectively "ENVIRONMENTAL LAWS") AND ANY COMMON LAW ACTIONS AND LIABILITIES AGAINST RELIABLE GLENWOOD FOR, RELATED TO, OR IN CONNECTION WITH ANY ENVIRONMENTAL CONDITION AT THE DONATION PROPERTY (OR THE PRESENCE OF ANY MATTER OR SUBSTANCE RELATING TO THE ENVIRONMENTAL CONDITION OF THE DONATION PROPERTY, WHETHER ON OR OFF-SITE) INCLUDING, BUT NOT LIMITED TO, CLAIMS AND/OR LIABILITIES RELATING TO (IN ANY MANNER WHATSOEVER) ANY HAZARDOUS MATERIALS LOCATED IN, AT, ABOUT OR UNDER THE DONATION PROPERTY, EXCEPT FOR OR IN RELATION TO ANY BREACH OR VIOLATION BY RELIABLE GLENWOOD OF ITS REPRESENTATIONS AND WARRANTIES AND OBLIGATIONS UNDER THIS AGREEMENT. FURTHER, VILLAGE, FOR VILLAGE AND VILLAGE'S SUCCESSORS AND ASSIGNS, AGREES TO DEFEND, INDEMNIFY AND HOLD HARMLESS RELIABLE GLENWOOD FROM ANY AND ALL THIRD PARTY CLAIMS OR CAUSES OF ACTION (ACTUAL OR THREATENED) BASED UPON, IN CONNECTION WITH OR ARISING OUT OF ANY ENVIRONMENTAL LAWS OR COMMON LAW RELATED TO, OR IN CONNECTION WITH ANY ENVIRONMENTAL CONDITION AT THE DONATION PROPERTY (OR THE PRESENCE OF ANY MATTER OR SUBSTANCE RELATING TO THE ENVIRONMENTAL CONDITION OF THE DONATION PROPERTY, WHETHER ON

OR OFF-SITE) INCLUDING, BUT NOT LIMITED TO, CLAIMS AND/OR LIABILITIES RELATING TO (IN ANY MANNER WHATSOEVER) ANY HAZARDOUS MATERIALS LOCATED IN, AT, ABOUT OR UNDER THE DONATION PROPERTY CAUSED BY RELIABLE GLENWOOD.

“**Hazardous Materials**” means each and every element, compound, chemical mixture, contaminant, pollutant, material, waste or other substance which is defined, determined or identified as hazardous or toxic under any environmental law or the release of which is prohibited under any environmental law. Without limiting the generality of the foregoing, the term will include: (a) “hazardous substances” as defined in CERCLA, SARA, or Title III of the Superfund Amendments and Reauthorization Act, each as amended, and regulations promulgated thereunder and as defined in the Illinois Environmental Protection Act; (b) “hazardous waste” as defined in the Resource Conservation and Recovery Act and regulations promulgated thereunder, and as defined in the Illinois Environmental Protection Act; (c) “hazardous materials” as defined in the Hazardous Materials Transportation Act, as amended, and regulations promulgated thereunder; (d) “chemical substance or mixture: as defined in the Toxic Substances Control Act, as amended, and regulations promulgated thereunder; (e) Special Waste including without limitation “pollution control waste” as defined in the Illinois Environmental Protection Act; and (f) petroleum products, petrochemicals and asbestos.

b. Until the time the Donation Property is conveyed to the Village, Reliable Glenwood shall maintain the title and control over the Retained Property as legally described in **EXHIBIT G**. Reliable Glenwood may continue to conduct Reclamation Operations, Recycling Operations and maintenance and storage facilities on the Retained Property in conformity with this Agreement. Reliable Glenwood may also, in the Reliable Glenwood’s sole discretion, use the Retained Property for any uses for which the Retained Property is zoned under this Agreement. Reliable Glenwood shall comply with all Village ordinances and codes in effect as of the Effective date in the development of the Retained Property.

c. The obligation set forth in this Paragraph concerning the conveyance of the Donation Property shall survive the expiration or termination of this Agreement subject to the right to disconnect as stated in Paragraph 3.18.

### **3.17 Condemnation**

The Village shall not condemn any portion of the Subject Property.

### **3.18. Partial Invalidity of Agreement**

a. If any provision of this Agreement (except those provisions relating to the requested rezoning of the Annexation Property identified herein and the ordinances adopted in connection therewith), or its application to any person, entity, or the Subject Property, is held invalid, such provision shall be deemed to be excised here from and the validity thereof shall

not affect the application or validity of any other terms, conditions, and provisions of this Agreement and, to that end, any terms, conditions, and provisions of this Agreement are declared to be severable. If, however, any term or condition of this Agreement is deemed void, invalid or unenforceable and the Reliable Glenwood or Annexation Property is or will be subject to additional or more stringent codes, regulations, rules, restrictions, performance standards, bulk regulations, design standards, other standards, ordinances, fees, charges, royalties, taxes, assessments of any kind or nature or other action by the Village, then the entire Agreement may, at Reliable Glenwood's sole option, be deemed null and void, and Reliable Glenwood shall be permitted to disconnect the Annexation Property. The right to disconnect the Annexation Property shall survive the expiration or termination of this Agreement.

b. If, for any reason, during the terms of this Agreement, any approval or permission granted hereunder regarding plans or plats of subdivision or zoning are declared invalid, the Village agrees to take whatever action is necessary to confirm such plans and zoning ordinance effectuating the zoning, variances, and plat approvals proposed herein.

### **3.19. Time is of the Essence**

It is understood and agreed by the Parties hereto that time is of the essence in this Agreement, and that all Parties will make every reasonable effort to expedite the subject matter hereof. It is further understood and agreed by the Parties that the successful consummation of this Agreement requires their continued cooperation.

### **3.20. Binding Effect and Term**

Unless either Party requires a change or modification to this Agreement, this Agreement constitutes a covenant running with the land and binding upon and inuring to the benefit of the Parties hereto, their successors and assigns, including, but not limited to, successor's of Reliable Glenwood's of record of the Subject Property, successors of Reliable Glenwood's lessees and successor lessees, and upon any successor municipal authorities of the Village for a period of twenty (20) years from the Effective Date. Reliable Glenwood agrees not to file any petition or institute any proceeding to disconnect the Annexation Property from the corporate limits of the Village during the term of this Agreement if the Village fulfills its obligations under this Agreement, including, but not limited to the amendment to the text of the "M-2" Manufacturing zoning classification. In the event that this Agreement, the disconnection, annexation, text amendment to "M-2" Manufacturing zoning classification of the Annexation Property are deemed invalid or unlawful or any other Village obligation is not fulfilled and not cured within a reasonable time, then the Reliable Glenwood has the right to disconnect the Annexation Property from the Village.

### **3.21. Amendments**

This Agreement may be amended in accordance with the procedures provided by law and ordinance. This Agreement may be amended by the Village and the Reliable Glenwood of record of a portion of

the Subject Property as to the provisions applying exclusively thereto, without consent of the Reliable Glenwood's of other portions of the Subject Property not affected by the amendment.

**3.22. Recording**

This Annexation Agreement shall be recorded with the Office of the Recorder of the County of Cook.

**3.23. Notices and Remedies**

a. Upon breach of this Agreement, any of the Parties in any court of competent jurisdiction may, by civil action, mandamus, injunction or other proceeding, enforce and compel performance of this Agreement.

b. Before any failure of any Party to this Agreement to perform its obligations under this Agreement shall be deemed to be a breach of this Agreement, (1) the Party claiming such failure shall notify, in writing, by certified mail/return receipt requested, the Party alleged to have failed to perform and performance shall be demanded; (2) the Party alleged to have failed to perform shall have the opportunity to cure such failure as follows: (a) all monetary and testing failures must be cured with 15 days after receipt of the written notice; and (b) all other failures to perform must commence curing within 90 days after receipt of the written notice and diligently pursue curing the default.

c. In the event the Village chooses to sue in order to enforce the obligations hereunder, the Reliable Glenwood shall pay all costs and expenses incurred by the Village, including, but not limited to, reasonable attorneys' fees and court costs, provided the Village prevails. In the event the Reliable Glenwood chooses to sue in order to enforce the obligations hereunder, the Village shall pay all costs and expenses incurred by the Reliable Glenwood, including, but not limited to, reasonable attorneys' fees and court costs, provided the Reliable Glenwood prevails.

d. Notices shall be provided at the following addresses:

Village: Village Clerk  
Village Manager  
Village of Glenwood  
Glenwood Village Hall  
One Asselborn Way  
Glenwood, IL 60425  
708-753-2400 (phone)  
708-753-2406 (fax)

Copies to: John Donahue  
Rosenthal, Murphey, Coblentz & Donahue

30 North LaSalle St., Suite 1624  
Chicago, IL 60602  
(312) 541-1070 (phone)  
(312) 541-9191 (fax)

Reliable Glenwood: William E. Haworth  
2250 Southwind Blvd  
Bartlett, IL 60103  
(708) 447-1100 (phone)  
(708)447-1112 (fax)

Copies to: Richard Guerard  
Guerard, Kalina & Butkus  
310 S. County Farm Road, Suite H  
Wheaton, IL 60187  
(630) 698-4700 (phone)  
(630) 690-9652 (fax)

### **3.24. Counterparts**

This Agreement may be executed in any number of counterparts, all of which, taken together, shall constitute one agreement, and any one of the Parties hereto may execute this Agreement by signing any such counterpart.

### **3.25. Authority and Legal Opinion**

The Reliable Glenwood and Village represent and warrant respectively that:

- a. Reliable Glenwood is a limited liability companies duly organized, validly existing and in good standing under the laws of the State of Illinois. Reliable Glenwood has full capacity, right, power and authority to execute, deliver and perform this Agreement and all documents to be executed by Reliable Glenwood pursuant hereto, and all required action and approvals therefor have been duly taken and obtained. The individuals signing this Agreement and all other documents executed or to be executed pursuant hereto on behalf of Reliable Glenwood are and shall be duly authorized to sign the same on Reliable Glenwood's behalf and to bind Reliable Glenwood thereto. The transaction contemplated hereby will not result in a breach of, or constitute a default or permit acceleration of maturity under, any indenture, mortgage, deed of trust, loan agreement or other agreement to which Reliable Glenwood or the Subject Property is subject or by which Reliable Glenwood or the Subject Property is bound or Reliable Glenwood's corporate authority. Neither the execution, delivery, or performance of this Agreement and all other documents related to the transactions contemplated hereunder conflicts with, breaches, or constitutes a default under, or will conflict with, breach, or constitute a default under, (a) the Articles of Organization or Operating Agreement of Reliable Glenwood, or (b) to the best of Reliable Glenwood's

knowledge, any agreement or instrument to which Reliable Glenwood is a party or by which it is bound.

b. The Village is a municipality duly organized, validly existing and in good standing under the laws of the State of Illinois. The Village has full capacity, right, power and authority to execute, deliver and perform this Agreement and all documents to be executed by the Village pursuant hereto, and all required action and approvals therefor have been duly taken and obtained. The individuals signing this Agreement and all other documents executed or to be executed pursuant hereto on behalf of the Village are and shall be duly authorized to sign the same on the Village's behalf and to bind the Village thereto. Neither the execution, delivery, or performance of this Agreement and all other documents related to the transaction contemplated hereunder conflicts with, breaches, or constitutes a default under, or will conflict with, breach, or constitute a default under, (a) the charter, Articles of Organization, ordinances or other governing documents of the Village, (b) any law, ordinance, regulation, statute, rule, regulation, or restriction, or any order, writ, injunction, or decree of any court or governmental authority, or (c) any agreement or instrument to which the Village is a party or by which it is bound.

### **3.26. CONFIDENTIALITY**

In connection with Reliable Glenwood's feasibility studies, Reliable Glenwood will review and acquire certain information regarding the Subject Property and Village Property (all such information, in whatever form or medium, collectively, "Evaluation Material"). To the extent the following does not conflict with local, state or federal law, from and after the date hereof and continuing following any closing hereunder or termination of the real estate contract between the Reliable Glenwood and Contract Seller, the Evaluation Material will be kept strictly confidential by the Village, its affiliates and each of their respective stockholders, directors, officers, employees, lenders, attorneys, accountants, financial advisors and other representatives (such affiliates and other persons being referred to herein collectively as "Village's Representatives"). The Evaluation Material or portions thereof may be disclosed solely to those of Village's Representatives and those persons who need to know such information for the purposes of evaluating the transactions contemplated by this Agreement. The Village will cause the Village's Representatives to observe the terms of this Paragraph, and agrees to be responsible for any breach of this Contract by the Village's Representatives. Under no circumstance shall the Village or its agent communicate any information and data from the Evaluation Material to any governmental authority, agency, office or regulatory body, whether local, state or federal, unless such material is required pursuant to a duly served and authorized subpoena or if disclosure of the Evaluation Material is specifically required of the Village pursuant to federal or state law. To the extent the following does not conflict with local, state or federal law, in the event the Village is required to disclose the Evaluation Material or any information or data pursuant to federal or state law specifically requiring the Village to make such disclosure, the Village shall, prior to such disclosure, give Seller written notice of same.

### **3.27. CERTIFIED COPIES**

The Village Clerk shall within thirty (30) days after the Effective Date provide Reliable Glenwood with certified copies of the Village zoning, subdivision and building codes; zoning maps; permit codes and fee schedules as in effect and amended on the Effective Date.

SIGNATURE PAGE FOLLOWS

IN WITNESS WHEREOF, the Parties have executed this Annexation Agreement the day and year first above written.

RELIABLE MATERIALS OF GLENWOOD, LLC

VILLAGE OF GLENWOOD

By: \_\_\_\_\_  
Manager

By: \_\_\_\_\_  
Village President

Attest: \_\_\_\_\_  
Village Clerk

LIST OF EXHIBITS

EXHIBIT A – LEGAL DESCRIPTION OF RELIABLE MATERIALS GLENWOOD  
PROPERTY

EXHIBIT B – LEGAL DESCRIPTION OF ANNEXATION PROPERTY

EXHIBIT C – LEGAL DESCRIPTION OF DONATION PROPERTY

EXHIBIT D – TEXT AMENDMENT TO “M-2” MANUFACTURING ZONING

EXHIBIT E – FORM OF ORDINANCES

EXHIBIT F – GEOTECHNICAL GUIDELINES FOR PLACEMENT

EXHIBIT G – LEGAL DESCRIPTION OF RETAINED PROPERTY

**EXHIBIT A – LEGAL OF RELIABLE MATERIALS GLENWOOD PROPERTY  
("SUBJECT PROPERTY")**

PARCEL 1:

PARCEL 2:

PARCEL 3:

PARCEL 4:

PARCEL 5:

PARCEL 6:

PARCEL 7:

PARCEL 8:

PARCEL 9:

PARCEL 10:

PARCEL 11:

PARCEL 12:

PARCEL 13:

(Parcel 1 of Survey):

PIN:

Address of Property: Vacant Land at the corner of \_\_\_\_\_, Glenwood, Illinois

**EXHIBIT B – LEGAL OF ANNEXATION PROPERTY**





## EXHIBIT D – TEXT AMENDMENT TO “M-2” MANUFACTURING ZONING

### \_\_\_\_\_ DEFINITIONS

**ADD** the following definitions:

**Asphalt Recycling, Storage and Sales:** The process whereby previously manufactured asphalt is received, stored, segregated, processed and remixed, without the application or use of heat, for sale to end markets.

**Concrete Recycling, Storage and Sales:** The process whereby previously manufactured concrete is received, stored, segregated, processed and remixed for sale to end markets.

**Recycling, Storage and Sales of Asphalt Shingles (RAS):** The process whereby previously manufactured residential roof shingles is received, stored, segregated and processed for sale to end markets. A special use shall be for facilities operating in conformance with a permit issued by the IEPA under sections 22.38 or 22.54 of the Illinois Environmental Protection Act (415 ILCS 5/22.38 and 22.54). The following uses shall not be permitted: recycling facilities that require local siting approval under 415 ILCS 5/39.2 or other pollution control facilities; asphalt plants; fueling stations.

**Feedstock Recycling, Storage and Sales:** The storage of source segregated gravel, glass, brick, or block in accordance with Village performance standards for use in any permitted operation.

**Reclamation or Fill Operation:** The operations necessary to receive and place clean soil, as defined inhalation and ingestion standards set forth in Title 35 of the Illinois Administrative Code, Part 742, Tiered Approach, Appendix B (industrial commercial) ("TACO B Standards"), in order to reclaim the site and make it suitable for redevelopment. Clean soil may include incidental amounts of stone, rock, gravel, concrete, asphalt roots, and other vegetation. Farming and composting may be used as a part of the operations on the site of the Reclamation Project during the Reclamation Operations. These operations include the inspection, segregation, preparation and placement of such materials in accordance with the laws, rules and regulations of the State of Illinois. These operations may be combined with other permitted or approved special uses, subject to the applicable performance standards for each.

**AMEND** the following definition:

**Maintenance and Storage Facilities:** Land, buildings and structures devoted primarily to the maintenance and storage (including, without limitation, outdoor storage) of construction equipment and material.

### \_\_\_\_\_ PURPOSE

**ADD** the following to the list of prohibited uses:

Recycling of aluminum containers or plastic containers

\_\_\_\_\_ **PERMITTED USES:**

**ADD** the following permitted uses:

Asphalt Recycling, Storage and Sales  
Concrete Recycling, Storage and Sales  
Feedstock Recycling, Storage and Sales  
Maintenance and Storage Facilities  
Reclamation or Fill Operation  
Recycling, Storage and Sales of Asphalt Shingles (RAS)

\_\_\_\_\_ **SPECIAL USES**

**ADD** the following:

Facilities Operating Under 415 ILCS 5/22.38

\_\_\_\_\_ **AMEND THE TEXT AS FOLLOWS:**

**Quarrying, Asphalt Recycling, Storage and Sales; Concrete Recycling, Storage and Sales; Feedstock Recycling, Storage and Sales; Maintenance and Storage Facilities; Railway Facilities; Recycling, Storage and Sales of Asphalt Shingles (RAS) and Reclamation or Fill Operations, Exempt from Bulk Regulations:** Notwithstanding anything contained herein, the provisions in this Section entitled Bulk Regulations shall not apply to quarry operations, Asphalt Recycling, Storage and Sales; Concrete Recycling, Storage and Sales; Feedstock Recycling, Storage and Sales; Maintenance and Storage Facilities; and Reclamation or Fill Operations.

\_\_\_\_\_ **AMEND THE TEXT AS FOLLOWS:**

All activities, including but not limited to manufacturing, assembly packaging or fabrication, but excluding quarrying, Asphalt Recycling, Storage and Sales; Concrete Recycling, Storage and Sales; Feedstock Recycling, Storage and Sales; Maintenance and Storage Facilities; Railway Facilities, and Reclamation or Fill Operations shall be performed within a completely enclosed, lawfully constructed building. /Remainder unchanged/

\_\_\_\_\_ **AMEND THE TEXT AS FOLLOWS:**

All dumpsters and other garbage or refuse receptacles for municipal solid waste shall be screened from view by landscaping, fences or walls. This requirement shall not apply to

dumpsters or receptacles used exclusively to receive screened or segregated waste materials in conjunction with Quarrying, Asphalt Recycling, Storage and Sales; Concrete Recycling, Storage and Sales; Feedstock Recycling, Storage and Sales; Maintenance and Storage Facilities; Asphalt Shingles (RAS) Recycling, Storage and operation in conformance with a permit issued by the IEPA under sections 22.38 or 22.54 of the Illinois Environmental Protection Act (415 ILCS 5/22.38 and 22.54); asphalt plants; fueling stations. and Sales; and Reclamation or Fill Operations.

\_\_\_\_\_ **DELETE FINAL PARAGRAPH OF SECTION.**

\_\_\_\_\_ **SPECIAL USES**

**EXHIBIT E – FORM OF ORDINANCES**

## EXHIBIT F – GEOTECHNICAL GUIDELINES FOR PLACEMENT

1. The Village, based on the field evaluations, may recommend to the Operator filling procedures and/or equipment utilization that will improve the compaction effort and assure a suitable end use construction platform. The Operator shall determine the economic impact of the Village's recommendation on its operations using industry accepted standards. The Village shall have an opportunity to review and comment on the Operator's economic impact analysis. The Village shall be responsible for reimbursing the Operator for the net increased costs, if any, as agreed to by the Village and Operator, associated with the Village's recommendations. If agreement cannot be reached between the Village and the Operator on the net increase in costs, the Village shall have the right to contract with outside parties to provide additional soil conditioning and compactive efforts.
2. Prior to acceptance of fill at the facility, the operator shall provide the Village an electronic version of a scaled topographic survey at a 2 foot contour-interval, tied into state plane coordinates, and certified by a registered Professional Land Surveyor in the State of Illinois to document the existing topography. The Operator agrees to provide the Village with an updated topographic survey on an annual basis.
3. The operator shall provide the Village, upon request, with a copy of any IEPA related permit documents associated with the filling activities.
4. Filling activities shall commence on the west portion of the area first, unless there is a need to construct equipment installations, ramps and/or access areas prior to commencing fill operations.
5. The Operator agrees to use a D6 Caterpillar bulldozer or an equivalent or larger piece of equipment to place and compact CCDD and uncontaminated soil in lifts no greater than two (2) feet. The Operator shall traverse the entirety of each soil lift in a manner that thoroughly and completely covers the surface area of each lift prior to the application of subsequent lifts. If additional equipment is specified and recommended by the Village pursuant to Guidelines No. 1 above, the Village shall be responsible for reimbursing the Operator for the net increased costs, as agreed to by the Village and Operator, associated with the Village's recommendation. If agreement cannot be reached between the Village and the Operator on the net increase in costs, the Village shall have the right to contract with outside parties to provide additional soil conditioning and compactive efforts.

**EXHIBIT G – LEGAL OF RETAINED PROPERTY**

# Memo

**To:** Village President, Board of Trustees  
**From:** Ashleigh Hostert *A Hostert*  
**cc:** Village Administrator, Finance Director, Finance Committee  
**Date:** May 14, 2014  
**Re:** Changes to Purchasing Policy

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**Purchasing Policy Changes which were approved by the Finance Committee on May 7, 2014 – The following changes were made to the Purchasing Policy that was put in place on November 5, 2013.**

Deletions:

- 1) Page 5 – First Section - #4: “recommending to the Board of Trustees the Vendor to be selected for purchases which exceed five-thousand dollars (\$5,000).”

Additions:

- 2) Page 5 – First Section - #3 – end of sentence: “before it is approved by the Board of Trustees.”
- 3) Page 5 – Second Section (C) - #7: “recommending to the Board of Trustees the vendor to be selected for purchases which exceed five-thousand dollars (\$5,000).”
- 4) Page 6 – Section 4.3 - #3: “The Village Administrator..”
- 5) Page 7 – Section 4.7 – Second Sentence: “Any transaction initiated by the Village President must be approved by the Village Treasurer and signed by the Village Administrator.”

- 6) Page 7 – Section 4.8 – Fifth Sentence: “If the Village President requests reimbursement, the Village Treasurer must sign the approval signature.”
- 7) Page 7 – Section 4.8 – Last Sentence: “Village Treasurer” was added after Village President.
- 8) Page 10 – Section 7.3 – Second Sentence “with the Credit Card Reimbursement Form” was added after delivered.

# VILLAGE OF GLENWOOD

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## Purchasing Policy



REVISED  
03/13/14

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## SECTION 1 – PURCHASING OBJECTIVES

It is the policy of the Village of Glenwood, Village President and Board of Trustees that all Village personnel engaged in purchasing and related activities shall conduct business dealings in a manner above reproach in every respect. Transactions relating to expenditure of public funds require the highest degree of public trust to protect the interests of the Village and the residents of Glenwood. Village officials and employees shall strive to:

1. Provide a standardized system of purchasing for use by all Village Departments;
2. Purchase in an open, forthright and ethical manner to ensure that public money is spent efficiently and effectively and in accordance with local, state, and federal laws and Village policies;
3. Obtain quality goods required by Village Departments in a timely manner so that services, commodities, materials, and equipment are available when needed;
4. Establish and maintain procedures to ensure that fair and equal consideration is given to vendors and selection is based upon the lowest responsible vendor;
5. Ensure that environmental considerations are factored into purchasing decisions, consistent with such traditional factors as product safety, price, performance and availability;
6. Procure products containing recovered materials, and environmentally preferable and energy-efficient products such as those identified as Energy Star, low voc, clean fuel, and utilizing energy efficient lighting when appropriate;
7. When using either the bid process or normal procurement process, and all other factors are equal, local vendors may receive preference.

**The policies and procedures set forth in the manual are meant to serve as guidelines and will not govern every purchasing situation that may arise.** The successful accomplishment of the purchasing objectives depends upon the users of this manual having a thorough knowledge of its contents. By concentrating on good purchasing practices, the objectives outlined above can be reached.

## SECTION 2 – PURCHASING ETHICS

- 2.1 GIFTS.** Per the Glenwood Municipal Code,<sup>1</sup> “Gift” means any gratuity, discount, entertainment, hospitality, loan, forbearance, or other tangible item having monetary value including, but not limited to cash, food and drink and honoraria for speaking engagements related to or attributable to government employment or the official position of an officer or employee. No official or employee shall directly or indirectly solicit, accept or receive any gift or consideration whether in the form of money, services, loan, travel, entertainment, thing or promise which was intended to influence him to act other than impartially in the performance of his/her official duties, or was intended as a kickback in connection with a purchase or contract<sup>2</sup> reward for any such action on his part. Any employee who is offered a bribe or kickback in connection with a purchase or contract shall report such offer to his/her department head immediately.
- 2.2 EMPLOYEE AND ELECTED OFFICIAL OWNED BUSINESSES.** To avoid the potential for or the appearance of favoritism or collusion on the competitive procurement of services, commodities, materials and equipment, the Village will not procure items or services from any firm, corporation, or business which is owned in whole or in part by someone employed by the Village or holding an elected office except in an emergency. Those responsible for administering this purchasing policy shall undertake reasonable efforts to make certain the Village is not utilizing a business owned in whole or in part by a Village employee or an elected official. This

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<sup>1</sup> Glenwood Municipal Code Chapter 2 Administration, Sec. 2-141

<sup>2</sup> Glenwood Municipal Code Chapter 2 Administration, Sec. 2-143

restriction shall not apply to a publicly held corporation where an employee or elected official has a de minimis ownership interest. Emergency purchases made from employee or elected official owned businesses must still be made in compliance with state law.

**2.3 INTEREST OF VILLAGE OFFICERS OR EMPLOYEES.** No official or employee, either on that person's behalf or on behalf of any other person, shall have any financial or personal interest in any business or transaction with any Board, Commission, Committee or other public body of the Village unless that official or employee makes full public disclosure of the nature and full extent of such interest and disqualifies him or herself from participating in and acting upon the resolution of the business or transaction.

**2.4 CONFLICT.** If any portion of this manual is found to be in conflict with any federal, state or local law, the federal, state or local law shall apply. However, if this manual is more restrictive than the federal, state or local law, the manual shall apply.

### SECTION 3 - PURCHASING AUTHORITY

**3.0** The Village Administrator, per the Village Code<sup>1</sup>, is the purchasing agent for the Village and is authorized to make all purchases and other expenditures authorized by the annual budget then in effect; provided that all purchases and other expenditures over five-thousand dollars (\$5,000) first shall be authorized by the Village Board. The Village Administrator is authorized to engage the services of engineers, architects, attorneys or other professional consultants for any matter that will create an obligation for such services not exceeding five-thousand dollars (\$5,000) without prior approval of the Village Board.

The Village Administrator is authorized to approve any change order to a Village contract which is less than five-thousand dollars (\$5,000) and does not result in an increase of the contract. A change order that increases a Village contract by five-thousand and one dollars (\$5,001) or more must have authorization from the Village Board.

The Village Administrator has authorized the Finance Director or his/her designee to administer and oversee compliance with the purchasing policies and procedures set forth in this manual.

**3.1 RESPONSIBILITY.** Purchasing responsibilities shall be as follows:

A. **BOARD OF TRUSTEES.** The Village Board of Trustees shall:

1. authorize all purchases and contracts which cost more than five-thousand dollars (\$5,000);
2. award all bids exceeding five-thousand dollars (\$5,000);
3. approve all agreements for architectural, engineering and land surveying services where the cost exceeds five-thousand dollars (\$5,000);
4. approve any waiver of competitive bidding requirements for purchases or contracts when allowed by state law; and
5. reject any or all bids for purchases or contracts exceeding five-thousand dollars (\$5,000).

B. **VILLAGE ADMINISTRATOR.** The Village Administrator shall be responsible for:

1. the overall administration of the Village's purchasing policies and procedures;
2. approval of vendor selection and issuance of purchase orders for all purchases of

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<sup>1</sup> Glenwood Municipal Code Chapter 2 Administration, Sec. 2-20

Village of Glenwood Purchasing Policy

services, commodities or equipment where the annual cost of the goods or services is between two-thousand five-hundred dollars and five-thousand dollars (\$2,500 and \$5,000);

3. approval of all agreements for architectural, engineering, consulting and land surveying services where the cost is more than two-thousand five-hundred dollars (\$2,500) and for all agreements that exceed five-thousand dollars (\$5,000) before it is approved by the Board of Trustees.

C. **DEPARTMENTS.** Departments, under the authority of the Department Head shall be responsible for:

1. vendor selection and issuance of purchase orders for all purchases where the cost of the services, commodities or equipment does not exceed two-thousand five-hundred dollars (\$2,500) and when the same is of a technical nature and is used primarily by the department;
2. approving all agreements for architectural, engineering and land surveying services where the cost is two-thousand five-hundred dollars (\$2,500) or less;
3. recommending to the Village Administrator the vendor to be selected for all purchases in excess of two-thousand five-hundred dollars (\$2,500);
4. reviewing and evaluating all purchases for compliance with purchasing policies and procedures;
5. coordinating the preparation of bidding documents where the cost is estimated to exceed five-thousand dollars (\$5,000);
6. maintenance of all bid files with the original copies of the documents.
7. recommending to the Board of Trustees the vendor to be selected for purchases which exceed five-thousand dollars (\$5,000).

D. **FINANCE DEPARTMENT.** Under the authority of the Finance Director, shall be responsible for:

1. maintaining a list of vendors and rendering assistance to the operating departments in choosing and evaluating vendors;
2. working with vendors to secure discounts for the Village and notifying the operating departments of the best prices;
3. reviewing and evaluating all purchases for compliance with purchasing policies and procedures;
4. recommending to the Village Administrator and the operating departments, methods for improving the purchasing function;
5. maintaining a master list and distributing bid numbers;
6. assisting the operating departments in determining the feasibility of establishing inventories and creating policies to monitor and control usage;
7. monitoring all purchasing contracts and costs on a regular basis and recommending alternative purchasing plans or vendors;
8. payment of invoices after receipt of proof of service, supplies, etc.
9. assisting in the preparation of insurance policies assuring the correct levels of protection for the Village;
10. assisting the Department Heads with researching cooperative purchasing arrangements to ensure that competitive pricing.

## **SECTION 4 – PURCHASING STRUCTURE**

### **4.1 BID PROCEDURE**

The Village Administrator shall prescribe the requirements to be met where free and open competitive bidding is utilized. The Finance Director shall also prescribe the Procedures by which the bids shall be received, the time limit upon receiving such bids, and the procedure by which the bids shall be opened, accepted, examined and recommendations made to the Board of Trustees for acceptance or rejection as the case may be. All purchases with or without bid must conform to Illinois complied statutes. All bids and quotations shall provide the following information:

1. Description
2. Quantity
3. Price
4. Delivery
5. Shipping charges
6. Quantity/payment discounts

### **4.2 SECURITY DEPOSITS FOR BIDS**

On all contracts and purchasing wherein bidding procedures are utilized if security deposits are required of bidders, the following security deposit requirements shall be met:

- On all purchases and contracts which exceed ten-thousand dollars (\$10,000), a security deposit of five percent of the actual bid will be required.

### **4.3 PURCHASING PROCEDURES WHERE BIDS NOT REQUIRED**

No purchases shall be authorized without prior appropriations. No contracts for goods or services shall be approved without prior appropriation of funds. Whenever competitive bidding and advertisement is not utilized, the following procedures shall be utilized:

1. Purchases of less than two-thousand five-hundred dollars (\$2,500) may be authorized by the supervisor of each department.
2. Purchases in the amount not to exceed five-thousand dollars (\$5,000) and over two-thousand five-hundred dollars (\$2,500) must be authorized by the supervisor of each department and the Village Administrator.
3. The Village Administrator and/or the Departments shall notify the Village Board for approval of all purchases over five-thousand dollars (\$5,000).
4. Business within the boundaries of Glenwood shall be given a preference on Village Purchases.

### **4.4 WHEN BIDS ARE REQUIRED**

All purchase orders or contracts of whatever nature, for labor, service or work, the purchase, lease or sale of personal property, material, equipment or supplies involving amounts in excess of ten thousand dollars (\$10,000) made on behalf of the Village, shall be let free and competitive bidding after advertisement, to the lowest responsible bidder, on in the appropriate instance to the highest responsible bidder, depending upon whether the Village is to expend or to receive money. All bidding shall be in conformance with Illinois Complied Statues. Village Administrator and Department Heads shall recommend the acceptance or rejection of bids for their approval to the Board of Trustees.

#### 4.5 EXEMPTIONS FROM BIDDING REQUIREMENTS

The following purchases are exempt from the requirements set forth in open and competitive bidding:

1. Purchase orders or contracts, for either labor, materials or both, which by their nature are not adaptable to award by competitive bidding, such as, but not limited to, contracts for the services of individuals possessing a high degree of professional skill where the ability of the individual plays an important part, contracts for supplies, materials, parts or equipment which are available only from a single source.
2. All purchase orders or contracts of whatever nature for labor services or work, the purchase, lease or sale of personal property, materials, equipment or supplies, wherein the price is to be paid by the Village is equal to or less than the price established by open and competitive bidding through either an agency or federal government or agency of the state, within one year immediately preceding the letting of the proposed contract by the Village.

#### 4.6 EQUAL OPPORTUNITY/NON-DISCRIMINATION POLICY

It is the policy of the Village of Glenwood that all potential suppliers shall have an equal opportunity to submit bids or quotations and to compete on an equal basis for the Village business.

The Vendor agrees that in performing under this purchase order with the contracting municipality, he shall not discriminate against any worker, employee or applicant, or any member of the public because of race, religion, color, national origin or sex, ancestry, age, marital status, physical or mental handicap, or unfavorable discharge from the military service. The vendors further agrees that this clause will be incorporated in all contracts entered into with suppliers of materials or services who may perform any such labor or services in connection with this contract.

#### 4.7 AUTHORIZED SIGNORS

All transactions for purchases or reimbursements that are initiated by the Village Administrator or a Department Head must be approved by the Village President or a member of the Board. Any transaction initiated by the Village President must be approved by the Village Treasurer and signed by the Village Administrator. The Board of Trustees will have the authority to approve transactions but cannot initiate any transactions.

#### 4.8 PETTY CASH DISBURSEMENTS

The Finance Department will be allowed to pay out petty cash reimbursements up to fifty dollars (\$50). All receipts for the expense must be attached to the Petty Cash form. Signatures will be required for the employee requesting the reimbursement, the Department Head for approval of the reimbursement and the clerk in the Finance Department that is disbursing the funds. If a Department Head requests reimbursement, the Village Administrator must sign as the approval signature. If the Village Administrator requests reimbursement, the Village President must sign as the approval signature. If the Village President requests reimbursement, the Village Treasurer must sign the approval signature. Any request for reimbursement over fifty dollars (\$50) will be paid by check at the next regularly scheduled Board meeting. From time to time there may be a need to disburse funds over fifty dollars (\$50) in cash, this will be accepted as long as the Village President/Village Treasurer has approved the transaction.

## SECTION 5 – COMPETITIVE PURCHASING AND EXCEPTIONS

**5.0** It is the policy of the Village of Glenwood to procure needed materials, equipment, and services at the lowest responsible cost. The only **exceptions** to these competitive purchasing guidelines are as specified in the Municipal Code;

1. Emergency Purchase
2. Sole Supplier
3. Equipment Standardization
4. Technical Nature of Item Makes Competition Impractical
5. Joint Governmental Purchasing Program

Each Department should periodically conduct a request for proposals or request for qualifications process for all professional services providers who routinely provide their services to the Village in order to ensure that the Village is utilizing the provider who will maximize the benefits to the Village.

**5.1 EMERGENCY PURCHASE.** Emergency purchases are those unforeseen purchases where there is an immediate threat to public health or safety, or to meet emergencies rising from unforeseen causes which necessitate the need for immediate delivery of items or services, or to prevent delays in work or construction schedules. Documentation including an explanation of the emergency must be submitted to the Village Administrator within five (5) working days from commencement of work or the ordering of the purchase. Emergency purchases over five-thousand dollars (\$5,000) must be approved by the Village President or his/her designee prior to the purchase and reported to the Village Board at the earliest opportunity for their approval. All emergency purchases must be thoroughly documented.

**5.2 SOLE SUPPLIER.** Contracts for parts, supplies or equipment that are available only from a single source are referred to as sole source purchases. Sole source procurements may arise from the following circumstances:

1. Equipment for which there is no comparable competitive product or is available only from one supplier;
2. Public utility services from natural or regulated monopolies;
3. A component or replacement part for which there is no commercially available substitute, and which can be obtained only from the manufacturer;
4. An item where compatibility is the overriding consideration, such as computer software.

These items shall not be subject to requirements for seeking competitive quotes or bids. However, purchases in excess of ten-thousand dollars (\$10,000) shall be presented to the Village Board prior to acquisition with a request to waive bids, approve the purchase and enter into a formal contract. Formal bidding for work or public improvements over ten-thousand dollars (\$10,000) may be waived by two-thirds vote of the Village Board.

**5.3 EQUIPMENT STANDARDIZATION.** Occasionally, because of the technical nature of certain items, standardization of a particular supplier's specifications may be desirable upon the user department director's documentation. In such a case, the final determining body for standardization will be the Board of Trustees. A decision to standardize must be weighed against:

- A. the problems associated with having only one supplier available; and,
- B. the economy of the alternative of non-standardization.

- 5.4 TECHNICAL NATURE OF ITEM.** In instances where the Village already has software, machinery or other technical equipment, the purchaser will not attempt to purchase something incompatible with what the Village already has in place. It is impractical to purchase something that would not be attuned to material already in place.
- 5.5 JOINT PURCHASING PROGRAM (COOPERATIVE).** Cooperative purchasing between the Village of Glenwood and the State of Illinois and other local governments, can result in significant savings on the purchase price of many items. It is the policy of the village to enter into cooperative purchasing agreements where:
1. substantial savings will result;
  2. quality, availability or services will not be sacrificed;
  3. the Village will be billed separately for its purchases;
  4. ordered items will be delivered directly to the Village (unless otherwise agreed upon).

## **SECTION 6 - BID PROCESS**

- 6.0 FORMAL BIDS.** Unless otherwise noted, all purchases of goods or services exceeding ten-thousand dollars (\$10,000) shall be let by free and open competitive bidding after advertisement, to the lowest responsible bidder the Village Board deems to be in the best interest of the Village, except that any such contract may be entered into without advertising for bids by a vote of two-thirds of the Trustees elected. Whenever the requirement for advertising for bids is waived by the Village Board, the reason for the waiver must be stated publicly. Acceptable reasons for waiver of the bid requirements include but are not limited to:

1. Emergency Purchase
2. Sole Supplier
3. Equipment Standardization
4. Technical Nature of Item Makes Competition Impractical
5. Joint Governmental Purchasing Program

- 6.1 RESPONSIBILITY.** It shall be the responsibility of the operating department to prepare bid specifications for the material or service required, attach general bid conditions to the bid specifications, review the specifications for clarity and accuracy, develop a bidder list and distribute the bids. (See Appendix A for required attachments).

It shall be the responsibility of the Finance Department to assign a bid number to the bid documents and keep a master copy of the bid for records. The Village Administrator shall cause for the bid to be brought to the Village Board of Trustees. Upon approval by the Village Board, the Village President and Village Clerk, or their designee, will sign said contract.

- 6.2 CHANGE ORDERS.** Once a contract has been approved by the Village Board, the Village Administrator is authorized to approve any change order to a Village contract which is less than five-thousand dollars (\$5,000). A change order that increases a Village contract by five-thousand and one dollars (\$5,001) or more must have authorization from the Village Board.

## **SECTION 7 - MISCELLANEOUS PURCHASING POLICIES**

- 7.1 ON-GOING COMMODITY REQUIREMENTS.** When commodities such as office supplies, automotive parts, and computer or copy machine supplies are needed and;
- a. relatively exact requirements can be determined in advance, the item will be let for bid in compliance with this policy.

## Village of Glenwood Purchasing Policy

- b. when items purchased are of a varying nature and quantity, standard discounts will be negotiated with supplier(s) by the Finance Department. All departments will be advised to purchase their requirements from the designated suppliers. Any purchase made from other than a designated supplier when a purchase agreement has been negotiated, shall be justified in writing.

**7.2 BLANKET PURCHASE ORDERS.** Blanket purchase orders are used for those vendors from whom many repetitive purchases are made as supplies are required, i.e., stone, asphalt, etc. Rather than issue a purchase order for each purchase, one purchase order is issued for a specified period (one month, six months, one year) to cover all purchases made during that period. Copies of proof of receipt must be maintained by the supervisor of the operating department and a copy attached to each invoice when submitting to the accounting department for payment. Blanket purchase orders are permitted only after a price has been predetermined which is generally secured through the bidding process.

**7.3 CREDIT CARD PURCHASES.** In the course of daily workings of the Village of Glenwood, there are instances when a credit card must be used to charge Village expenditures. The current Purchasing Policy must be complied with when using a credit card and an original receipt for the merchandise or services must be obtained and delivered **with the Credit Card Reimbursement Form** to the Accounts Payable Department.

Credit cards will only be issued to the Village President, Village Administrator and Department Heads. The credit card is not to be used for personal use or borrowed by another individual.

The Department Credit Card can be used with any vendor that accepts MasterCard and the single purchase is under two-thousand five-hundred dollars (\$2,500), unless approved by the Village President or Village Administrator.

As with all purchases made on the Village's behalf, goods purchased with the credit card are exempt from sales tax. Therefore, the vendor shall be provided with a sales tax exemption form in order to avoid being charged sales tax. The Department Head requesting the purchase with the credit card is responsible for indicating to the supplier that the Village is Tax Exempt.

The Department Head making the request for the purchase with a credit card is responsible for ensuring receipt of materials and resolving any discrepancies or damaged goods issues with the supplier. The Village Administrator or Finance Director shall be notified immediately of any problems with a supplier or defective purchase.

Items such as office supplies, computer supplies, online registrations, and emergency purchases are examples of purchases that can be used with the credit card.

If a Department Credit Card is lost or stolen, the Department Head must immediately notify the Financial Institution that issued the credit card and the Finance Department.

## SECTION 8 - PLANNING AND SCHEDULING

**8.1 INVENTORIES.** All goods purchased by the Village shall be reviewed to determine the feasibility of establishing inventories. If an inventory is feasible for any given goods, then written records shall be maintained.

All goods for which a written inventory is maintained will be physically counted at least annually and the physical inventory and the written inventory will be balanced. If a significant discrepancy in the physical inventory is discovered, an investigation will be instituted and necessary additional controls will be established. The Village Administrator, through the Director of

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Finance, will be advised of the discrepancy, the results of the investigation and the controls established.

**8.2 SHIPPING AND FREIGHT.** All bid prices and price quotations shall be Freight on Board (F.O.B.) Village of Glenwood with delivery to a point or points within the Village.

It is the policy of the Village to avoid paying shipping charges whenever possible. If the Village is to pay shipping charges, it must be noted at the time the invoice is received by the Village. Department Heads should inquire into applicable shipping charges when obtaining price quotations. Any shipping charges to be paid by the Village will be regarded as part of the price quotation when selecting the successful vendor. Unless otherwise stated, all formal bid proposals shall include freight and delivery charges, if any.

**8.3 RECEIVING AND INSPECTION.** Department Heads (or their designates) are responsible for receiving and inspecting all deliveries to their departments to ensure that items received conform to the specifications and quantities set forth in the purchase order. All deliveries should be thoroughly inspected to ensure that materials are received in satisfactory condition, and the invoice price is compared to that on the purchase order. Only after all items on a purchase order have been delivered in an acceptable condition should the departments submit the appropriate forms to the Finance Departments so bills may be paid. Each vendor must accept returned items for full credit. All bills will eventually appear on the Vendor list for monthly Board approval.

**8.4 INVOICES**

- A. All invoices shall be mailed directly to the Accounting Department. If an invoice is mailed to the Department, it should be forwarded to the Accounting Department with any necessary paperwork to accompany.
- B. All deliveries should be F.O.B. Glenwood, Illinois. Freight charges should be billed on the invoice. No receiving person should pay any freight charges (except postage due).
- C. The Village is exempt from the payment of sales tax. Invoices should not include sales tax. Should a vendor request a copy of the tax-exempt letter, one can be obtained in the Finance Department.

**SECTION 9 – RULES FOR USE OF VENDORS**

**9.1 VENDOR COMPLIANCE WITH LAWS / NON-DISCRIMINATION.** It is the policy of the Village of Glenwood that all potential bidders have an equal opportunity to submit bids and to compete on an equal basis for Village business. Also, under Illinois law, the Village is obligated to require all its contracts and bid specifications to include mandatory language on matters such as fair employment practices, collusion, bid rigging, tax evasion, Prevailing Wage, and other matters. These requirements may change from time to time and persons preparing such documents are required to keep up to date with Federal and State guidelines for current requirements and to determine which are applicable to the contract concerned (for example, Prevailing Wage requirements only apply to public works contracts, not to commodities purchases). At a minimum, all bid specifications, purchase orders and contracts to which the Village of Glenwood is party, must contain the standard recitals as set forth in Appendix A of this policy.

**9.2 OPENNESS.** All reports detailing the reasons for selection of a vendor shall be made available to the public upon request.

**9.3 VENDOR DISCOUNTS.** It is the policy of the Village to take advantage of all available vendor discounts. The following points should be kept in mind:

- A. cash discounts may be offered for prompt payment
- B. trade discounts or special municipal pricing levels are sometimes offered to municipalities for the purpose of attracting their business. In many cases, the Village will not be offered such discounts unless the purchaser asks if one is available. Therefore, it is essential that Department Heads, when obtaining price quotations, ask if such discounts are available.

**9.4 VENDOR USED BY MORE THAN ONE DEPARTMENT.** When the Village has negotiated a standard discount with a vendor, such as office supplies or printing, the purchaser need not obtain competitive quotes before purchasing from said vendor.

**9.5 LOCAL VENDORS.** When possible, purchasing should be of a competitive nature, either through the formal bidding or quoting system. If two vendors offer the same or similar pricing, the contract shall be awarded to the local responsible vendor, quality and service being equal.

When used in this section, the term “local vendor” shall mean a person submitting prices who regularly maintains an office open for business within the corporate limits of the Village of Glenwood.

**9.6 VENDORS USED ON A REGULAR BASIS.** There are many vendors used by Village Staff on a regular basis. Purchases with these vendors often occur in amounts less than one-thousand dollars (\$1,000). However, over the course of the year, or over the years, the amount of business given to these vendors is substantial. In instances such as this, it may be required that a Department Head submit reports to the Village Administrator on at least an annual basis explaining the reasons for using particular vendors. Department Heads are expected to ensure that the Village is paying a reasonable amount for the items involved.

*Appendix A*

**Bidding Procedures**

1. **DEFINITION.** All other contracts or purchases for materials, equipment commodities, labor or public improvements, where the cost thereof exceeds ten-thousand dollars (\$10,000) shall be let to the lowest responsible bidder in a manner and form as is prescribed by the purchasing policy.
2. **RESPONSIBILITY.** It shall be the responsibility of the department to prepare bid specifications for the material or service required, attach general bid conditions to the bid specifications, review the specifications for clarity and accuracy, develop a bidder list and distribute the bids. It shall be the responsibility of the Finance Department to accept the bid documents.
3. **ADVERTISEMENT FOR BIDS.** Where required by state or local law or this policy, the Village shall advertise by publication in newspaper or trade journal for sealed bids for any proposed work, materials, commodities or equipment. Such advertisement shall be inserted not less than 7 working days nor more than 30 working days before the date set for opening of bids.

The published notice for bids need only give a general description of the work to be done or the materials to be furnished, but detailed drawings, plans, profiles and specifications as prescribed by the operating department for such improvement shall be made and placed in the office of the operating department prior to the publication of such advertisement and shall at all times be open to public inspection.

Such notice shall also contain such conditions and restrictions related to bids, pre-requisites related to bidders, place to obtain plans and specifications, security, deposits, withdrawal or rejection of bids, proposals, contracts and performance bonds as determined by the department director.

In all advertisements, the right to reject any and all bids shall be expressly reserved.

The public notice shall be in substantially the following form:

LEGAL NOTICE  
VILLAGE OF GLENWOOD  
COOK COUNTY, ILLINOIS  
ADVERTISEMENT FOR BIDS

The Village of Glenwood, Illinois will receive sealed bids or proposals for the construction of (*insert public improvement or equipment, service*) at the Clerk's office, One Asselborn Way, Glenwood, IL 60425, until \_\_\_ (am/pm) on the \_\_\_ day of \_\_\_, 20\_\_\_. Proposals will be publically read aloud at \_\_\_ on the \_\_\_ day of \_\_\_, 20\_\_\_. No bid shall be withdrawn after the opening of the proposals without the consent of the President and Board of Trustees for a period of forty-five days after the scheduled time of closing bids.

All proposals shall be sealed in an envelope, addressed to the Village of Glenwood, attention Clerk's Office. The name and address of the bidder and the name of the project shall also appear on the outside of the envelope. Proposals must be submitted on the forms provided by the Engineer.

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The Bid Documents, including specifications, are on file at the office of the Engineer, (*insert the Engineer's name and address*), and may be obtained from the Engineer's office upon payment of \$ \_\_\_ for each set. The bid documents will be issued until \_\_\_ (am/pm) on the \_\_\_ day of \_\_\_ , 20\_\_ . No refunds will be made for documents received from the Engineer.

A certified check/bank draft drawn on a solvent bank or bid bond, payable without condition to the Village of Glenwood in an amount not less than ten percent (10%) of the bid shall be submitted with each proposal, as a guarantee that, if the proposal is accepted, a contract will be entered into and the performance of the contract is properly secured.

A performance bond in a sum equal to one hundred percent (100%) of the amount of the bid, with sureties to be approved by the President and Board of Trustees for the faithful performance of the contract, must be furnished by the successful bidder. All bids or proposals shall contain an offer to furnish bond upon acceptance of such bid or proposal.

The right is reserved to reject any or all proposals, to waive technicalities, to postpone the bid opening, or to advertise for new proposals, if in the judgment of the President and Board of Trustees their best in interests will be promoted thereby.

The Contactor will be required to pay not less than the prevailing wage rates on this project as established by the United States Department of Labor. He shall also comply with all applicable Federal, State and local regulations.

Prequalifications will be required to be submitted to the engineer by all potential buyers. If in the opinion of the Engineer and the President and Board of Trustees, an applicant would not be able to serve the best interest of the Village of Glenwood, a proposal will not be issued to the applicant.

PRESIDENT AND BOARD OF TRUSTEES  
VILLAGE OF GLENWOOD  
COOK COUNTY, ILLINOIS

4. **BID SPECIFICATIONS.** The operating department will prepare bid specifications for the construction, material or service required. The specifications or scope of work is the heart of the document and can do more for the success of the contract than any other part of the contracting process. The principal characteristics of a successful scope of work are clarity, completeness, and logical development. The development, selection and use of a particular type of specifications are dependent on the situation, time, information available and needs of the user. Care must be taken not to make the specifications so specific as to eliminate qualified vendors and also not to make them too generic so as to encourage responses from unqualified vendors.

A. **Types of Specifications**

- Performance specifications communicate what a product is supposed to do, rather than how it is to be built. These would include the operating parameters required to perform a specific function.
- Design specifications employ dimensional and other physical requirements and concentrate on how a product is made, rather than what it should do. These would include dimensions, tolerances, drawings, and specific construction processes.
- "Brand name or equal" is used when a specification mentions a manufacturer's brand name or model number. Brand names may only be used to describe a standard of quality or performance, and may not be used to limit or restrict competition. The term "or equal" must be used when referencing brand names.

- Scope of work for services is used for the procurement of professional or other services. Service related specifications should clearly state the specific tasks to be performed, performance milestones, time limitations, and a definition of the final project deliverables.

5. **INVITATION TO BID.** The operating department will prepare the Invitation to Bid (general conditions) which include: applicability, questions concerning bids, withdrawing of bids, closing time, bid opening time, bid award, right to reject bids, default, price, examination of site (if applicable), bid bond (if applicable), performance bond (if applicable), bid forms, references, extension of contract (if applicable), pre-bid conference (if applicable), informalities and irregularities, and qualifications of bidders.

6. **GENERAL CONDITIONS OF THE BID.**

- A. Certificates and licenses. State requirements for certification, business licenses, occupational licenses, professional licenses, exterminating licenses, hazardous waste hauling licenses, asbestos removal licenses and any other licenses required of the contractor are covered by the certificates and licenses clause.
- B. Employment discrimination. An employment discrimination clause is included in every public contract.
- C. Ethics in public contracting. This clause is included to advise the contractor of regulations covering gifts, inducements, or kickbacks to government employees.
- D. Oral statement. This clause states that written modifications are the only acceptable method for changing the contract.
- E. Price adjustments based on the Consumer Price Index.
- F. Renewal of Contract. This clause allows a contract to be renewed for an additional period under the original terms and conditions. The offer of renewal should always be at the discretion of the local government, although the contractor may not be required to accept the offer. If the contractor agrees to renew at the same price, there is no need for a re-bid. The renewal of contract clause must be included in the bid documents whenever a renewal is contemplated.
- G. Termination. Termination clauses cover either termination for default or termination at the convenience of the government.

7. **BID PROPOSAL FORM.** The operating department will prepare the Bid Proposal form which must include the name and address of the Village, time, and date of bid opening, and title. Also include the wording "late, fax or phone bids will not be accepted."

Each bid proposal form is structured to incorporate the pricing structure that applies to the contract:

*Lump Sum Pricing:* The bidder enters a lump-sum price in the blank space provided for the first year of the contract term or for each year, if multi lump-sum prices are requested.

*Unit Pricing:* Provide space in the contract for prices for units of service rendered (price per square foot for sidewalk, per curb mile for street sweeping, per tree for trimming or

When applicable the Bid Proposal should include at the bottom: “The prices submitted in this bid proposal are effective from \_\_\_\_\_ to \_\_\_\_\_.”

Bid Proposal forms should include: “The undersigned agrees to start work within day(s) after notification by the Village of its acceptance of the bid.”

All Bid Proposal forms must include signature lines at the bottom of the form that include Signature, Title (printed), Company (printed), Address (printed) City, State and Zip, and Area Code/Phone.

The person signing the Bid Proposal form must be a person authorized to bind the vendor contractually. Unsigned bids will be rejected. Unsigned bids cannot be signed after the bid has been opened, even if the vendor or the vendor’s representative is present at the bid opening. No signatures shall be in pencil.

8. **BID DISTRIBUTION.** Bid documents will be distributed to all interested vendors by the operating department and a bidder list prepared with names and addresses of vendors kept in the bid file. If the bidder list is exceptionally long or the bid document exceptionally large, do not mail the complete bid document; mail a notice of the bid, which is usually just a copy of the cover page of the solicitation.
9. **BID RECEIPT.** All bids should be received by the date and time and at the location specified in the bid documents. Bid responses are usually stamped with the date and time received, which is an effective way to establish exactly when a late bid response was received. At the time and location noted in the legal notice and bid documents, the bids will be opened and read publicly.
10. **BID OPENING.** Bids are opened and read publicly at the date, time and location specified in the legal notice and bid documents. Bid responses are opened and read aloud to a second staff person who acts as a witness and who may also be responsible for recording the information on the tabulation form. Bid openings are open to the public and expect one or two bidders to attend the opening. The names of all those who attend and the Village representatives should be recorded.

Advise any bidders attending that the tabulations state only what was observed at receipt of bids, and that no award recommendation will be made until staff has analyzed each bid response.

11. **EVALUATION OF COMPETITIVE SEALED BIDS.** Evaluation of the bid is undertaken by the department involved. The bidders are ranked by price. If the contract contains multiple unit prices, the award formula described in the solicitation determines price ranking. The bid is generally awarded to the lowest responsive and responsible bidder.
12. **DETERMINATION OF LOWEST – RESPONSIBLE BIDDER.**

Some criteria to use when determining the lowest responsible bidder:

- a) The ability, capacity and skill of the bidder to perform the contract or provide the service required.
- b) The ability of the bidder to perform the contract or provide the service promptly or within the time specified, without delay or interference.
- c) The character, judgment, experience and efficiency of the bidder.
- d) The quality of performance on previous contracts or service.
- e) The previous and existing compliance by the bidder with laws and ordinances relating to

- f) The sufficiency of the financial resources of the bidder to perform the contract to provide the service.
- g) The quality, availability and adaptability of the bidder's supplies, equipment or personnel to the particular use or service required.
- h) The ability of the bidder to provide future maintenance and service, if required.
- i) The number and scope of conditions attached to the bid.
- j) Any monies owed to the Village by the bidder which have remained unpaid for a period of more than 45 days, whether for bills, taxes, licenses or otherwise.

**13. REJECTION OF RESPONSES.** A number of conditions can warrant rejection of a response; among them are the following: the firm is suspended or debarred; the response violates conflict of interest laws; the respondent fails to submit the required bid bond or suitable alternative surety; the response lacks requested information; the bid is received late; failure to use the response form.

**14. AWARD OF CONTRACT TO LOWEST RESPONSIBLE BIDDER.** The following procedure will be used by the department head:

- a) Prepare and forward to the Village Administrator a report recommending the vendor from which the item or service should be procured. The report should also include a tabulation of bids received, the budgeted amount for the item or service, and the applicable account numbers.
- b) Notify any vendor who inquires of the recommended purchase award.
- c) The Village Administrator will forward the department report with his comments to the Village Board for action.
- d) If the Village Board approves the request for purchase authorization, all original documents will be forwarded to the department head for filing and issuance of a purchase order. If the purchase authorization includes a contract document, the operating department shall forward copies to the Village Administrator's office for signature(s).

**15. LEGAL FORMS INCLUDED IN THE INVITATION TO BID.** Certificate of Eligibility, Sexual Harassment Policy Certification, Equal Employment Opportunity, Compliance with Laws, Hold Harmless, Competition, Drug Free Workplace Certification, Certificate of Authorized Dealer, Insurance Requirements, Required List of Equipment (if applicable), Compliance with Laws, Licensing, Safety, Prevailing Wage Certification.

- A. Certificate of Eligibility: Each bidder must submit with the bid a certification that he is not barred from bidding on this contract as a result of a violation of either Section 33E-3 or 33E-4, Article 33E of the Illinois Criminal Code.
- B. Sexual Harassment Policy Certification: Each bidder must submit with the bid a sexual harassment policy certification as required by Section 2/105 of the Illinois Human Rights Act, 775 ILCS 5/2-105 *et seq.* The certification form is included herein.
- C. Drug Free Workplace Certification: Each bidder must submit with the bid a drug free workplace certification in accordance with Section 3 of the Illinois Drug Free Workplace Act.
- D. Compliance with Safety Standards Certification: Each bidder must submit with the bid a

- E. Prevailing Wage Certification: Each bidder must submit with the bid a compliance with prevailing wage certification.
- F. Fair Employment Practices: The BIDDER assures the VILLAGE that he is an “Equal Opportunity Employer” as defined by federal and state laws and regulations. He agrees to comply with the Illinois Employment Practice Commission Equal Opportunity clause as required
- G. Certificate of Prequalification: Required as part of all IDOT associated bids, and can be used for Village bids. A certificate issued by the Illinois Department of Transportation indicating the applicants financial rating, work rating, and the effective period of prequalification.

**16. ADDITIONAL CLARIFICATION OF BID (if applicable) REQUIREMENTS.**

- A. **Bonds.** Bonds protect the Village by compelling the qualifying bidder to guarantee the execution of a contract and the successful performance of the services outlined in the contract. Bonds are also used to insure that payments to workers, suppliers, and subcontractors will be made.

Certain bonds are required by law; other types may be required as a matter of good business practice to assure proper protection.

- a) **Bid Bond.** A bid bond, cashier’s check, certified check or other approved security in an amount equal to 5% to 20% of the bid can be required to guarantee the successful bidder will sign a contract in the following instances: a) the bid is for a construction project, b) any other bid for which the director of the operating department deems it necessary to protect the interest of the Village.

A bid bond is not always required. This bond is included when a contractor submits a bid and guarantees that the contractor will enter into a contract should their bid be accepted by the Village of Glenwood. Instead of a bid bond, a certified check may be provided as a guaranty that the contractor will enter into a contract should their bid be accepted by the Village of Glenwood. Certified checks are often provided as security for the purchase of equipment and supplies.

There shall be no duty on the part of the Village, or its officers, to convert said check or bond into cash, and the bidder shall accept all responsibility for failure of the bank to pay or honor sums.

- b) **Performance/Contract Bonds and Labor & Material Payment Bonds** are mandated by Illinois Law for public construction projects in excess of \$5,000, and are written for 100% of the contract price. They may, however, be required for other installed services.

When preparing the bid document, departments should consider whether to require contractors to provide a performance/contract bond if awarded the contract. In instances where the bid is for construction services or significant building improvements, it is mandatory to require the contractor to provide a performance/contract bond. A performance bond, issued by a surety company, stipulates a legal, written obligation to guarantee 100% payment for any financial

loss caused by default of the contractor. When assigned to the Village of Glenwood, it grants an assurance as to the performance and successful completion of the terms of the contract and assures payment of taxes, licenses or assessments associated with the contract. The contractor shall provide the performance/contract bond with the appropriate labor and material bond within ten (10) calendar days of the award of the bid. Bonds required to guarantee performance and payment for labor and material for the work shall be in a form acceptable to the Village. At the discretion of the Village, depending on the scope and nature of the project, the performance/contract bond shall provide that they shall not terminate on completion of the work, but shall be reduced to a minimum of ten percent (10%) of the contract sum upon the date of final payment by the Village for a period of one (1) year to cover a warranty and maintenance period which the contractor agrees shall apply to all material and workmanship for one (1) year from the date of issuance of the final payment by the Village.

- c) **Lien Bond/Waivers:** When securing waivers of lien on construction projects, the Village is assured that additional money will not be required after the job is completed and payments are made in accordance with the contract. The Village is assured that neither the general contractor nor any of the named subcontractors can collect additional money for unpaid creditors.

17. **INSURANCE.** Sound purchasing practice dictates that sellers or contractors who come onto Village property have adequate insurance coverage for damage and personal injury to themselves and others. Recommended coverage includes commercial general liability, automobile insurance, workers' compensation and employer's liability insurance to appropriate limits, designed to fit potential hazards. Subcontractors should be similarly insured, and the department head should assure that the appropriate coverage is in place before issuing a contract.

- A. **Insurance Requirements:** Contractor shall procure and maintain for the duration of the contract, insurance against claims for injuries to persons or damages to property, which may arise from or in connection with the performance of the work hereunder by the Contractor, his agents, representatives, employees or subcontractors.
- B. **Minimum Limits of Insurance.** Contractor shall maintain limits no less than the following:
  - a) **Commercial General Liability:** \$1,000,000 combined single limit per occurrence for bodily injury and property damage, and \$1,000,000 per occurrence for personal injury. The general aggregate shall be twice the required occurrence limit. Minimum General Aggregate shall be no less than \$2,000,000 or a project/contract specific aggregate of \$1,000,000.
  - b) **Village and Contractors Protective liability (OCP):** \$1,000,000 combined single limit per occurrence for bodily injury and property damage.
  - c) **Business Automobile Liability:** \$1,000,000 combined single limit per accident for bodily injury and property damage.
  - d) **Workers' Compensation and Employers' Liability:** Workers' Compensation coverage with statutory limits and Employers' Liability limits of \$500,000 per accident.
  - e) **Builder's Risk:** Shall insure against "All Risk" of physical damage, including

water damage (flood and hydrostatic pressure not excluded), on a completed replacement cost basis.

- f) Environmental Impairment/Pollution Liability: \$1,000,000 combined single limit per occurrence for bodily injury, property damage and remediation costs.

C. **Deductibles and Self-Insured Retentions.** Any deductibles or self-insured retentions must be declared to and approved by the Village. At the option of the Village, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the member, its officials, agents, employees and volunteers, or the Contractor shall procure a bond guaranteeing payment of losses and related investigation, claim administration and defense expenses.

D. **Other Insurance Provisions.** The policies are to contain, or be endorsed to contain, the following provisions:

- a) General Liability and Automobile Liability Coverage –Additional Insured’s. The Village, its officials, agents, employees and volunteers (if applicable) are to be covered as additional insured’s as respects liability arising out of the Contractor’s work, including activities performed by or on behalf of the Contractor; products and completed operations of the Contractor; premises owned, leased or used by the Contractor; or automobiles owned, leased, hired or borrowed by the Contractor. The coverage shall contain no special limitations on the scope of protection afforded to the member, its officials, agents, employees and volunteers.
- b) The Contractor’s insurance coverage shall be primary as respects the member, its officials, agents, employees and volunteers. Any insurance or self-insurance maintained by the Village, its officials, agents, employees and volunteers shall be excess of Contractor’s insurance and shall not contribute with it.
- c) Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the member, its officials, agents, employees and volunteers.
- d) The Contractor’s insurance shall contain a Severability of Interests/Cross Liability clause or language stating that Contractor’s insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer’s liability.
- e) If any commercial general liability insurance is being provided under an excess of umbrella liability policy that does not “follow form,” then the Contractor shall be required to name the Village, its officials, agents, employees and volunteers as additional insured’s.
- f) All general liability coverages shall be provided on an occurrence policy form. Claims-made general liability policies will not be accepted.

E. **Workers’ Compensation and Employers Liability**

- a) Workers compensation shall provide according to the provisions of the Illinois Worker’s Compensation Act, as amended. Notwithstanding the rating and

financial size categories stated in this Article, coverage may be provided by a group self-insurer authorized in Section 4(a) of the Act and approved pursuant to the rules of the Illinois Department of Insurance.

- b) Employers Liability.
  - i. Each Accident \$500,000
  - ii. Disease-policy limit \$500,000
  - iii. Disease-each employee \$500,000

- F. **All Insurance Policies.** All insurance shall remain in force during the period covering occurrences happening on or after the effective date and remain in effect during performance of the work and at all times thereafter when the Contractor may be correcting, removing or replacing defective work until notification of the date of final inspection. Termination or refusal to renew shall not be made without 30 days prior written notice to the Village by the insurer and the policies shall be endorsed so as to remove any language restricting or limiting liability concerning this obligation.

Certified copies of the original policies or certificate(s) of insurance by the insurer(s) issuing the policies and endorsements setting forth the coverage, limits and endorsements shall be filed with the Village before the Village will execute the contract.

- G. **Acceptability of Insurers.** Insurance is to be placed with insurers with a Best's rating of no less than A-, VII and licensed to do business in the State of Illinois.
- H. **Subcontractors.** Contractors shall include all subcontractors as insured's under its policies or shall furnish separate certificates and endorsement for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.
- I. **Assumption of Liability.** The contractor assumes liability for all injury to or death of any person or persons including employees of the contractor, any subcontractor, any supplier or any other person and assumes liability for all bodily injury and property damage sustained by any person or persons occasioned by or in any way arising out of any work performed pursuant to the agreement.

**18. INDEMNITY/HOLD HARMLESS PROVISION – (should be included as separate section of the contract.)**

To the fullest extent permitted by law, the Contractor hereby agrees to defend, indemnify and hold harmless the member, its officials, agents and employees, against all injuries, deaths, loss, damages, claims, patent claims, suits, liabilities, judgments, cost and expenses, which may in anywise accrue against the member, its officials, agents and employees, arising in whole or in part or in consequence of the performance of this work by the Contractor, its employees, or subcontractors, or which may in anywise result therefore, except that arising out of the sole legal cause of the member, its agents or employees, the Contractor shall, at its own expense, appear, defend and pay all charges of attorneys and all costs and other expenses arising therefore or incurred in connections therewith, and if any judgment shall be rendered against the member, its officials, agents and employees in any such action, the Contractor shall, at its own expense, satisfy and discharge the same.

Contractor expressly understands and agrees that any performance bond or insurance policies required by this contract, or otherwise provided by the Contractor, shall in no way limit the responsibility to indemnify, keep and save harmless and defend the member, its officials, agents and employees as herein provided.

Optional paragraph: The Contractor further agrees that to the extent that money is due the Contractor by virtue of this contract as shall be considered necessary in the judgment of the Village, may be retained by the Village to protect itself against said loss until such claims, suits or judgments shall have been settled or discharged and/or evidence to that effect shall have been furnished to the satisfaction of the member.

19. **AWARDING BIDS.** The Village Administrator shall cause for the bid to be brought to the Village Board of Trustees. Upon approval by the Board, the Village President and Village Clerk, or their designee, will sign said contract.
20. **CONTRACT PREPARATION.** The final step in the award process is the preparation of the contract, the only document that governs performance and price during the contract term. There are three types of contracts:
  - a) the purchase order contract;
  - b) the short form contract, standard contract provided by the contractor;
  - c) formal contract.

Purchase Order Contract: The simplest contract format is the purchase order, which is used primarily for uncomplicated, moderate cost, competitive sealed bidding contracts. Documents incorporated into the purchase order by reference include the scope of work, the general terms and conditions of the bid document, bid form and any sections of the bid document or the contractor's bid response that have a direct bearing on the performance or price.

Contractor's Standard Contract Form: Architects, engineers and other professionals often request the use of a standard contract form. Whenever possible, avoid pre-printed or standard contract provided by the vender without legal review. Such contracts frequently contain clauses favoring the architect, engineer or corporation, for example, clauses governing mandatory arbitration, indemnification of the contractor by the local government, the contractor's ownership of materials produced and delivered to the local government, and the granting of broad powers of decision to the contract.

Formal Contract: The formal contract is the type usually preferred by local government. The content of a formal contract document is specific to the service. The contract should include at a minimum the name and address of the Village, contract (bid) title, bid number, scope of work, time and date for completion of the contract, total amount of contract, and a signature block for the contractor and a signature block for the Village. Because contract events are often based on the contract date, it is more prudent to use the date of execution by the Village as the official contract date – after all bonds, insurance, licenses and other required submissions have been received and approved.



SAFETY - QUALITY - PERFORMANCE - SINCE 1908

Bob Nelson

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PROPOSAL

SUBMITTED TO:  JOB LOCATION

ADDRESS  JOB NAME

CITY  STATE  ZIP  DATE

ATTENTION OF: Mike Murray

PROPOSAL BINDING FOR

OUR PROPOSAL IS AS FOLLOWS:

To furnish all material, labor and equipment needed to:

Remove 6 – existing Street Light poles. Repair existing foundations, install 6 new T-Bases and reset street light poles.

WE PROPOSE TO FURNISH THE NECESSARY LABOR AND MATERIAL FOR THE SUM OF

(  )

BY Bob Nelson

ACCEPTANCE OF THIS PROPOSAL;

BY \_\_\_\_\_ PURCHASE ORDER NO. \_\_\_\_\_  
COMPANY DATE

BY \_\_\_\_\_ CONTRACT NO. \_\_\_\_\_

Please sign and return via fax, mail, or e-mail.  
Thank You,  
Bob Nelson