

RESOLUTION 16-16

APPROVING A PROFESSIONAL SERVICES AGREEMENT WITH ESI CONSULTANTS, LTD. WITH PROVIDING ENGINEERING SERVICES FOR THE REPRODUCTION COSTS NEW LESS DEPRECIATION (RCNLD) STUDY FOR THE MANTENO WASTEWATER SYSTEM

WHEREAS the Village of Manteno acting by and through its Village President and Board of Trustees find it in the public interest that a certified professional be contracted to provide engineering services for the Reproduction Costs New Less Depreciation (RCNLD) Study for the Manteno Wastewater System; and

WHEREAS it is necessary to contract with a professional company with certified personnel skilled in providing engineering services for the Reproduction Costs New Less Depreciation (RCNLD) Study for the Manteno Wastewater System; and

WHEREAS ESI Consultants, Ltd., Naperville, IL, is a company with professional and certified personnel skilled in providing engineering services for the Reproduction Costs New Less Depreciation (RCNLD) Study for the Manteno Wastewater System.

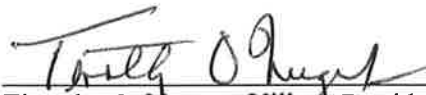
NOW THEREFORE BE IT RESOLVED by the President and Board of Trustees of the Village of Manteno, Kankakee County, Illinois as follows:

SECTION 1: That an agreement for Professional Services with ESI consultants, Ltd., Naperville, IL, in connection with providing engineering services for the Reproduction Costs New Less Depreciation (RCNLD) Study for the Manteno Wastewater System and the same is hereby approved.

SECTION 2: That the Village President is hereby authorized, empowered and directed to execute said agreement for Professional Services provided for in Section One of this resolution in the form and content of **Exhibit "A"** which is attached hereto and made a part hereof.

Passed by the Board of Trustees of the Village of Manteno, Kankakee County, Illinois at a regular meeting thereof held on 6th day of September, 2016 and approved by me as Village President on the same day.

| RECORD OF THE VOTE | Yes | No | Abstain | Absent |
|--------------------------|-----|----|---------|--------|
| President Timothy Nugent | | | | |
| Trustee Timothy Boyce | ✓ | | | |
| Trustee Samuel Martin | ✓ | | | |
| Trustee Diane Dole | ✓ | | | |
| Trustee Todd Crockett | ✓ | | | |
| Trustee Joel Gesky | ✓ | | | |
| Trustee Wendell Phillips | ✓ | | | |
| TOTAL VOTES <i>or</i> | | | | |
| BY OMNIBUS VOTE | 6 | | | |


 Timothy O. Nugent, Village President

ATTEST:


 Alisa Blanchette, Village Clerk



ESI Consultants, Ltd.
Excellence. Service. Integrity

August 26, 2016

Mr. Bernie Thompson
Village Administrator
Village of Manteno
98 East Third Street
Manteno, IL 60950

Re: Proposal for Professional Engineering Services
Reproduction Costs New Less Depreciation Study for Manteno Wastewater System

Dear Mr. Thompson:

ESI Consultants, Ltd is pleased to render professional engineering services in connection with the proposed Reproduction Costs New Less Depreciation (RCNLD) study for the wastewater system owned and operated by the Village of Manteno (hereinafter called the "Project"). All references to "Client" or "Village" in this proposal refer to the Village of Manteno and references to "Engineer" or "ESI" refer to ESI Consultants, Ltd.

Understanding of the Project

Client desires to understand the valuation of the Village's tangible personal property associated with the wastewater system. It is assumed that this valuation does not include equipment and tools, such as trucks, tractors, hand tools, portable pumps, etc.; however, they can be included if specifically requested by the Village. Client will provide Engineer with a layout of the wastewater gravity sewer system and information with approximate lengths of gravity sewers and force mains and number of manholes with the year in which they were constructed. In addition, the information will include details on the structures and contents at the wastewater treatment plant (WWTP) and the lift stations. Village will also provide any information pertaining to grants for the original construction or major improvement projects associated with the system. Engineer will confirm the lengths comparing those measured from the atlas with the total lengths per diameter included in the spreadsheet. Engineer will visit the site to visually inspect the visible condition and quality of the lift stations and structures at the WWTP. In addition, a cursory review of the gravity system will be made in the field to confirm the accuracy of the atlas. For the cost of the plant, an estimate of the reproduction cost will also be compared based on a cost per average daily capacity of the plant in million gallons per day.

Engineer will coordinate with a real estate appraiser to provide a valuation for the land/property owned by Client pertaining to the wastewater treatment plant and seven lift stations. Based on

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our discussions, appraisals will not be provided for any utility easements where gravity sewers or force mains are located.

Client understands that the cost study will be limited to the information provided. It is our experience that the cost of the wastewater system can be increased by reviewing the Village's records to determine if there have been any expenses for materials outside those incurred as capital costs. ESI has included a task to review the Village's records for the last five years to determine if there are any costs such as meters and other small equipment or repairs that were made for which the costs can be incorporated into the cost of the overall asset.

Scope of Services

Services will consist only of services included in this agreement for the preparation of the RCNLD Study described as follows:

1. Meet with Village representatives in a project kick-off meeting. Obtain a copy of available information from the Village.
2. Compare the lengths measured from the atlas with the total lengths per diameter provided by the Village.
3. Visit the wastewater treatment plant and lift station sites to conduct a brief preliminary assessment of condition of the facilities solely for the purpose of preparing the RCNLD Study.
4. Perform a cursory review of the gravity system in the field to check the accuracy of the Village's atlas.
5. Review the Village's records for the last five years to determine if there were any expenses that could be used to increase the cost of the wastewater system. Up to 8 hours have been assigned to this task.
6. From the documents provided by Client, prepare a spreadsheet that includes the description of the components along with the projected January 2017 construction cost, age and service life for each component.
7. Estimate the percent of depreciation for each component.
8. Coordinate with real estate appraiser to determine a cost for any real estate owned by the Village as described above in its undeveloped condition.
9. Prepare a draft RCNLD Study.
10. Provide two copies of the draft RCNLD Study to the Village for review and comment.
11. Address Village comments and provide two signed and sealed copies of the final RCNLD Study to Village along with one electronic copy.



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Schedule

Engineer will complete the basic scope of services above within five weeks of receiving an executed agreement. It is anticipated that these services will be completed by February 28, 2017.

Compensation

As compensation for completing the basic scope of services listed above, Client will pay Engineer a lump sum fee as outlined below:

RCNLD Study for Wastewater System..... \$16,500.00

For Additional Services of ESI's principals and employees engaged directly on the PROJECT a fee based on the actual hours expended multiplied by the appropriate employee billing rate, as set forth in ESI's Billing Rate Schedule attached hereto shall be used.

In addition to the professional services fees set forth above, ESI shall be compensated for reimbursable expenses such as printing, postage, messenger service travel and other similar project-related items. ESI shall be compensated an amount equal to one hundred ten percent (110%) of the actual expenses incurred.

ESI will bill CLIENT for all additional services not included in the scope of this agreement on the basis of ESI's hourly rates as shown in Exhibit B.

On January 1, 2018, and yearly thereafter, the fees and the hourly rates for all un-completed work shall be escalated by an amount not to exceed five (5) percent.

ESI will bill CLIENT monthly for the engineering services and reimbursable expenses. Payment is to be made within thirty (30) days of receipt of our invoice. If CLIENT objects to any invoice submitted by us, CLIENT shall so advise us in writing giving reasons therefore within fourteen (14) days of receipt of such invoice. If no such objection is made, the invoice will be considered acceptable to CLIENT. ESI reserves the right to stop work on the Project if our invoices are overdue by more than thirty (30) days. ESI shall not be liable for damages arising out of any such stop of work, nor deemed to be in default of this Agreement as a result thereof. These financial arrangements are based on the orderly and continuous progress of the Project.



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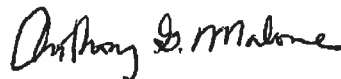
Contents of Agreement

This proposal and General Provisions, attached hereto and incorporated therein, represent the entire understanding between you and us in respect of the Project and may only be modified in writing signed by both of us.

If this proposal satisfactorily sets forth your understanding of the arrangement between us, please sign the enclosed copy of this letter in the space provided below and return it to us. This proposal will be open for acceptance for a period of 60 calendar days. Authorization to proceed requires return of this signed agreement.

Thank you for requesting ESI Consultants, Ltd. to provide professional services on this Project.

Sincerely,
ESI CONSULTANTS, LTD.



Anthony Malone, P.E.
Vice President

ACCEPTED THIS 6th DAY OF September, 2016

VILLAGE OF MANTENO

BY: Timothy O. Hughes

TITLE: VILLAGE PRESIDENT

ATTEST BY: Alisa Blanchette by Darla Hurley

TITLE: Village Clerk by Deputy VC

K:\MKTG & SALES\MANTENO\PROPOSAL RCNLD STUDY FOR MANTENO WW SYSTEM 20160815.DOC



ATTACHMENT A

GENERAL TERMS AND CONDITIONS

1. **Governing Law.** It is acknowledged that all Agreements are deemed to be entered into and executed at the ENGINEER's offices in Naperville and are governed by, and construed in accordance with, the laws of the State of Illinois.
2. **Rates.** All work performed by ENGINEER staff (inclusive of professional, support, and secretarial staff), unless specified elsewhere in the Agreement, shall be charged at ENGINEER's then applicable standard hourly rates for staff. A copy of current rates is attached to this Agreement.
3. **Terms of Payment.** ENGINEER shall submit monthly statements for Basic and Additional Services rendered and for Reimbursable Expenses incurred, based upon ENGINEER's estimate of the proportion of the total services actually completed at the time of billing or based upon actual hours expended during the billing period. CLIENT shall make prompt monthly payments in response to ENGINEER's monthly statements.

If CLIENT fails to make any payment due ENGINEER for services and expenses within thirty (30) days after receipt of ENGINEER's statement therefore, the past amounts due ENGINEER will be increased at the rate of 1% per month retroactively from the date of the invoice. ENGINEER may after giving seven days written notice to CLIENT, suspend services under this Agreement until ENGINEER has been paid in full all amounts due for services, expenses and charges. ENGINEER shall have no liability whatsoever to CLIENT for any costs or damages as a result of such suspension.

4. **Client's Responsibilities.** CLIENT shall do the following in a timely manner so as not to delay the services of ENGINEER.
 - a. Provide all criteria and full information as to CLIENT's requirements for the Project, including design objectives and constraints, borings, probings and subsurface explorations, hydrographic surveys, laboratory tests, environmental assessment and impact statements, property, boundary, easement, right-of-way, topographic and utility surveys, property descriptions, zoning, deed and other land use restrictions; all of which ENGINEER may use and rely upon in performing services under this Agreement.
 - b. Arrange for access to and make all provisions for ENGINEER to enter upon public and private property as required for ENGINEER to perform services under this Agreement.
 - c. Give prompt written notice to ENGINEER whenever CLIENT observes or otherwise becomes aware of any development that affects the scope or timing of ENGINEER's services, or any defect or non-conformance in the work of any Contractor.
5. **Engineer's Responsibilities.** ENGINEER will render engineering services in accordance with generally accepted and currently recognized engineering practices and principles. ENGINEER makes no warranty, either expressed or implied, with respect to its services.
 - a. Notwithstanding anything to the contrary which may be contained in this Agreement or any other material incorporated herein by reference, or in any Agreement between the CLIENT and any other party concerning the Project, the ENGINEER shall not have control or be in charge of and shall not be responsible for the means, methods, techniques, sequences or procedures of construction, or the safety, safety precautions or programs of the CLIENT, the construction contractor, other contractors or subcontractors performing any of the work or providing any of the services on the Project. Nor shall the ENGINEER be responsible for the acts or omissions of the CLIENT, or for the failure of the CLIENT, any architect, engineer, consultant, contractor or subcontractor to carry out their respective responsibilities in accordance with the Project documents, this Agreement or any other agreement concerning the Project. Any provision which purports to amend this provision shall be without effect unless it contains a reference that the content of this condition is expressly amended for the purposes described in such amendment and is signed by the ENGINEER.
 - b. CLIENT reserves the right by written change order or amendment to make changes in requirements, amount of work, or engineering time schedule adjustments, and ENGINEER and CLIENT shall negotiate appropriate adjustments acceptable to both parties to accommodate any changes
6. **Right to Stop Services Due to Payment Delinquency.** ENGINEER reserves the right to stop work specified under the scope of services attached hereto if any progress invoice is more than 30 days outstanding. In such instance, the Client shall retain complete liability for payment of fees and expenses associated with work performed through the date work was stopped. Client holds Engineer harmless of any actions or conditions, or from any penalties or fees, which Client incurs from Engineer stopping work on a project for such non-payment.
7. **Expiration of Proposed Agreement.** Unless otherwise indicated in the Agreement, the proposed Agreement will become null and void at 5:00 p.m., Central Time, 30 calendar days following the date thereof, unless the executed Agreement is returned to ENGINEER prior to that time. However, ENGINEER retains the unilateral right to accept an executed Agreement subsequent to the scheduled expiration date. ENGINEER's acceptance of the Agreement after the expiration date will be signified by its commencement of work included in the scope of services. Should ENGINEER commence an engagement after its receipt of an executed Agreement, but subsequent to the expiration date of that Agreement, the Agreement shall be deemed a contract and shall be fully binding on the Client and on ENGINEER.
8. **Termination.** Subsequent to execution of the Agreement by the Client and its acceptance by ENGINEER, either party may terminate the Agreement without cause upon providing written notice to the other party. Should the Agreement be terminated, written notice must be conveyed via certified mail, and all costs associated with ENGINEER's work rendered to the date of receipt (or mailing, if initiated by

ENGINEER) of the termination notice must be paid in full by the Client, as well as any associated expenses and the expense processing fee plus costs of termination including salaries, overhead, expenses and fee incurred either before or after the date of termination.

9. **Confidentiality of Assignment.** ENGINEER will respect the confidential nature of the assignment and in so doing will use its discretion where specific identification of the project or the Client might be required in obtaining research data. In the course of performing services under this Agreement, Client may disclose to ENGINEER, or ENGINEER may otherwise acquire, confidential or proprietary business or technical information ("Information"). ENGINEER will receive and maintain in confidence all Information and will exercise all reasonable efforts to avoid the disclosure of Information to others. ENGINEER will not use Information for any purpose other than the performance of services for Client.
10. **Use of Reports by Clients/Copyright.** ENGINEER's interim drafts, memoranda, and final reports will not be presented to third parties by the Client except in the form delivered. In no event may any ENGINEER report be used in whole or in part in any public offering or security without the prior written consent of ENGINEER. No abridgment, abstracting, or excerpting of reports may be made for any purpose whatsoever without obtaining the permission of ENGINEER. ENGINEER does not authorize conveyance of, or reference to, all or any part of the contents of its reports to the public through advertising, public relations, news, sales, or other media without prior written consent. The copyright of all reports and documents are held by ENGINEER. CLIENT may make and retain copies for information and reference in connection with the use and occupancy of the Project by CLIENT and others; however, such documents are not intended or represented to be suitable for reuse by CLIENT or others on extensions of the Project or on any other project. Any reuse without written verification or adaptation by ENGINEER for the specific purpose intended will be at CLIENT's sole risk and without liability or legal exposure to ENGINEER, or to ENGINEER's independent professional associates or consultants, and CLIENT shall indemnify and hold harmless ENGINEER and ENGINEER's independent professional associates and consultants from all claims, damages, losses and expenses including reasonable attorney's fees and costs of defense arising out of or resulting therefrom. Any such verification or adaptation will entitle ENGINEER to further compensation at rates to be agreed upon by CLIENT and ENGINEER.
11. **Objectivity.** To protect Client, and to assure that ENGINEER's research results, observations and recommendations will continue to be accepted as objective and impartial, it is expressly understood and agreed that ENGINEER's fee for the undertaking of this engagement is in no way dependent upon the specific conclusions reached or the nature of the advice given in the draft and/or final reports.

ENGINEER shall not be required to sign any documents, no matter by whom requested, that would result in the ENGINEER having to certify, guarantee or warrant the existence of conditions whose existence the ENGINEER cannot ascertain. CLIENT also agrees not to make resolution of any dispute with ENGINEER or payment of any amount due to the ENGINEER in any way contingent upon the ENGINEER signing any such certification.

12. **Excusable Delays.** ENGINEER shall not be in default of its obligations under the Agreement if such failure arises out of causes beyond its control and without the fault or negligence of ENGINEER. Such causes may include, but are not restricted or limited to, acts of God, acts of any government, fires, floods electrical brownouts, strikes, or unusually severe weather. Other circumstances creating excusable delays include, but are not limited to, delivery of a corresponding retainer fee, delivery of an executed Agreement without corresponding delivery of data required for ENGINEER to perform its services (as specified in the Agreement or in attachments thereto), changes in the scope of services requested by the Client before or after execution of the Agreement and/or the commencement of work, Client initiation of changes in a development plan or project after work has commenced by ENGINEER, or any other delay prompted by an action on the part of the Client.

Any delays associated with delivery of the specified product due to a Client's tardiness in providing ENGINEER with data it needs to complete the engagement shall not be deemed a breach of the Agreement by ENGINEER. Should a Client change the scope of services, any deadline date or cost maximum specified in the Agreement will be changed accordingly. This may be done by ENGINEER verbally or in writing. Any excusable delay caused by a change in the scope of services or a change in the development plan or program will cause an increase in ENGINEER's fee. Any increase will be billed on an hourly plus expenses basis in addition to the fee cited in the Agreement

13. **Limitation of Liability** CLIENT and ENGINEER have discussed the risks, rewards, and benefits of the project and the ENGINEER's total fee for services. Risks have been allocated such that the CLIENT agrees that, to the fullest extent permitted by law, the ENGINEER's total liability to the CLIENT for any and all injuries, claims, losses, expenses, damages, or claim expenses arising out of this agreement from any cause or causes shall not exceed the total fees associated with this agreement or \$100,000, whichever is less. Such causes include but are not limited to the ENGINEER's negligence, errors, omissions, strict liability, or breach of contract. CLIENT agrees, as a part of its contract with its client to limit the liability of both CLIENT and ENGINEER in the same manner as above.
14. **Indemnification.**
 - a. ENGINEER agrees to the fullest extent permitted by law, to indemnify and hold CLIENT harmless from any loss, cost (including reasonable attorney's fees and costs of defense) or expense for property damage and bodily injury, including death, caused by ENGINEER's, or its employees' negligent acts, errors or omissions in the performance of professional services under this Agreement.
 - b. CLIENT agrees to the fullest extent permitted by law, to indemnify and hold ENGINEER harmless from any loss, cost (including reasonable attorney's fees and costs of defense) or expense for property damage and bodily injury, including death caused solely by CLIENT's, its agents or employees, negligent acts, errors or omissions in the performance of professional services under this Agreement

- c. Any claim pursuant to this Agreement must be in writing, must set forth the facts upon which is based, and must be received by ENGINEER within two (2) years of the completion of the Services provided under the applicable Task Order.
 - d. Notwithstanding to the contrary, ENGINEER shall not be liable for:
 - (i) damage or injury to any subterranean structures (including, but not limited to, pipes, tanks, and telephone cables) or any existing subterranean conditions, or the consequences of such damage or injury, if such structures or conditions were known or should have been known to Client and were not shown, or were incorrectly shown, on plans furnished by Client to Consultant in connection with the Services or otherwise disclosed to ENGINEER;
 - (ii) any of Client's business losses or consequential damages, except as covered by insurance policy in effect pursuant to this agreement hereto;
 - (iii) any claim or demand against Client by any third party except as covered by the applicable insurance policies in effect pursuant to this agreement hereof; or
 - (iv) damages resulting from cessation of services under this agreement
15. **Compliance with Law.** Sub-consultant shall review laws, regulations, codes and standards in effect as of the date of this agreement that are applicable to the Subconsultant's services and shall exercise professional care and judgment to design in compliance with requirements imposed by governmental authorities having jurisdiction over the project.
16. **Subcontracts.** ENGINEER may not assign this agreement without written notification and approval from CLIENT, such approval not be unreasonably withheld. ENGINEER may, subcontract work to be performed hereunder, provided ENGINEER remains liable under this Agreement for all acts, errors, and omissions of such subcontractor, and agrees to indemnification for such acts, errors and omissions. Subject to the foregoing, this Agreement shall inure to the benefit of, and be binding upon, the successors and assigns of the parties.
17. **Waiver.**
- a. No waiver of the terms, conditions and covenants of this Agreement shall be binding and effective unless the same shall be in writing signed by the parties.
 - b. A waiver of any breach of the terms, conditions and covenants of this Agreement shall be for that one time only and shall not apply to any subsequent breach.
18. **Severability.** If any provision, phrase or other portion of this Agreement should be determined by any court of competent jurisdiction to be invalid, illegal, or unenforceable in whole or in part, and such determination should become final, such provision, phrase or other portion shall be deemed to be severed or limited, but only to the extent required to render the remaining provisions hereof enforceable; and, provided that the severing of any such provision will not materially change the substance of this Agreement. As so amended, this Agreement shall be enforced to the fullest extent possible to give effect to the intention of the parties expressed herein.
19. **Facsimile Transmissions.** The parties agree that each may rely, without investigation, upon the genuineness and authenticity of any document, including any signature or purported signature, transmitted by facsimile machine, without reviewing or requiring receipt of the original document. Each document or signature so transmitted shall be deemed an enforceable original. Upon request, the transmitting party agrees to provide the receiving party with the original document transmitted by facsimile machine; however, the parties agree that the failure of either party to comply with such a request shall in no way affect the genuineness, authenticity or enforceability of the document. Each party waives and relinquishes as a defense to the formation or enforceability of any contract between the parties, or provision thereof the fact that a facsimile transmission was used.
20. **Other Matters.** Should any requests or disputes arise that requires ENGINEER's services beyond the scope of services provided for in the Agreement and for which the Client gives prior approval to perform, the Client agrees to pay ENGINEER for staff time at ENGINEER's standard billing rates plus expenses, unless prior agreement has been reached between ENGINEER and the Client. Neither ENGINEER nor any employee shall be required to give testimony or attend meetings of any type (unless specified in the agreement) without prior arrangement as to fee, whether subpoenaed by the client or any other group.

END

2016 STANDARD BILLING RATES

ESI CONSULTANTS, LTD. STAFF BILLING RATE SCHEDULE

(Rates effective January 1, 2016 through December 31, 2016)

| Description | Hourly Rate |
|--|-------------|
| President / Principal | \$230.00 |
| Vice President / Director | \$180.00 |
| Senior Manager / Senior Consultant | \$173.00 |
| Senior Structural Project Manager | \$190.00 |
| Senior Project Manager | \$170.00 |
| Structural Project Manager | \$165.00 |
| Project Manager / Project Manager Consultant | \$152.00 |
| Senior Resident Engineer | \$145.00 |
| Resident Engineer | \$142.00 |
| Senior Structural Project Engineer | \$145.00 |
| Project Engineer 2 | \$135.00 |
| Resident Engineer 2 | \$135.00 |
| Structural Project Engineer | \$130.00 |
| Project Engineer/ Resident Engineer 1 | \$124.00 |
| Senior Technician 2 | \$119.00 |
| Engineer 3 | \$113.00 |
| Engineer 2 | \$105.00 |
| Engineer 1 | \$102.00 |
| Resident Technician / Senior Technician | \$101.00 |
| Technician 3 | \$92.00 |
| Technician 2 | \$82.00 |
| Technician 1 / Engineering Intern | \$69.00 |
| Sr. Admin. Management Consultant | \$175.00 |
| Administrative Associate 3 | \$69.00 |
| Administrative Associate 2 | \$59.00 |
| Administrative Associate 1 | \$47.00 |
| Administrative Clerk 1 | \$37.00 |

Note: - Time is charged portal to portal

All direct expenses are calculated using a factor of 1.10.

Travel expenses are based upon the current State Mileage Reimbursement Rates.

2016 Standard Billing Rates
Naperville • Chicago • Charleston



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