

RESOLUTION
R 66-02

A RESOLUTION AUTHORIZING SIGNATURE OF
PRESIDENT AND CLERK ON AN AGREEMENT

WHEREAS, the Corporate Authorities of the Village of Lombard have received an Agreement between the Village of Lombard, and School District 44 regarding the Lombard Hills – East (Phase 3) project as attached hereto and marked Exhibit "A"; and

WHEREAS, the Corporate Authorities deem it to be in the best interest of the Village of Lombard to approve such agreement.

NOW, THEREFORE, BE IT RESOLVED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF LOMBARD, DU PAGE COUNTY, ILLINOIS as follows:

SECTION 1: That the Village President be and hereby is authorized to sign on behalf of the Village of Lombard said agreement as attached hereto.

SECTION 2: That the Village Clerk be and hereby is authorized to attest said agreement as attached hereto.

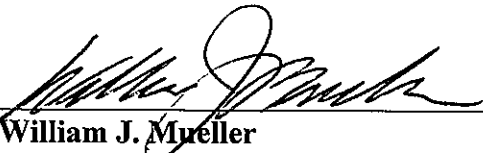
Adopted this 1st day of November, 2001.

Ayes: Trustees DeStephano, Tross, Koenig, Sebby, Florey, Soderstrom

Nays: None

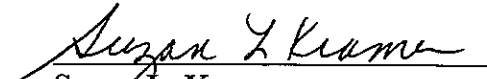
Absent: None

Approved this 1st day of November, 2001.



William J. Mueller
Village President

ATTEST:



Suzan L. Kramer
Village Clerk

APPROVAL AS TO FORM:

Thomas P. Bayer
Village Attorney

**AN INTERGOVERNMENTAL AGREEMENT
BETWEEN THE VILLAGE OF LOMBARD AND
LOMBARD ELEMENTARY SCHOOL DISTRICT NO. 44
IN REGARD TO THE PLEASANT LANE SCHOOL**

THIS AGREEMENT, entered into this 1st day of November, 2001, by and between the VILLAGE OF LOMBARD (hereinafter referred to as the "VILLAGE") and the BOARD OF EDUCATION OF LOMBARD ELEMENTARY SCHOOL DISTRICT NO. 44, DuPage County, Illinois (hereinafter referred to as the "SCHOOL DISTRICT").

WITNESSETH

WHEREAS, the SCHOOL DISTRICT is the record owner of certain property, commonly known as Pleasant Lane School (hereinafter referred to as the "School Property"); said School Property being generally located South of Berkshire Avenue, East of Main Street, North of Pleasant Avenue and approximately two hundred forty-five (245) feet West of Garfield Street, and legally described on Exhibit "A" attached hereto and made part hereof; and

WHEREAS, the SCHOOL DISTRICT desires to construct a bus drop-off and sidewalk adjacent thereto on the Subject Property along Berkshire Avenue, between Main Street and Charlotte Street, construct a driveway entrance from Berkshire Avenue to the existing parking lot on the School Property and remove the existing driveway connecting said parking lot to Pleasant Avenue, all as shown in greater detail on the site plan attached hereto as Exhibit "B" and made part hereof (hereinafter referred to as the "Access Improvements"); and

WHEREAS, the VILLAGE is currently in the process of moving forward with the survey work and design work for a right-of-way improvement project in the area of the School Property; said project being commonly known as the Lombard Hills-East (Phase 3) Project (hereinafter referred to as the "Village Project"); and

WHEREAS, in an effort to save the SCHOOL DISTRICT both time and money relative to the construction of the Access Improvements, the VILLAGE has offered to add the Access Improvements to the Village Project, provided the SCHOOL DISTRICT reimburses the VILLAGE for the surveying, design and construction costs (including utility relocation costs) associated with the Access Improvements; and

WHEREAS, the SCHOOL DISTRICT and the VILLAGE desire to work cooperatively with respect to the construction of the Access Improvements as part of the Village Project; and

WHEREAS, the SCHOOL DISTRICT and VILLAGE desire to set forth their respective obligations, relative to the construction and financing of the Access Improvements; and

WHEREAS, Article VII, Section 10 of the 1970 Illinois Constitution and 5 ILCS 220/1 through 220/9 provide authority for intergovernmental cooperation; and

WHEREAS, it is in the best interests of the VILLAGE and the SCHOOL DISTRICT to enter into this Agreement;

NOW, THEREFORE, in consideration of the foregoing, and the mutual covenants and agreements contained herein, the parties hereto agree as follows:

1. INCORPORATION OF PREAMBLES. The preambles hereto, as set forth above, are incorporated herein by reference and are made part hereof.
2. COVERAGE OF AGREEMENT. The parties hereto agree and acknowledge that this Agreement is applicable only to the Access Improvements, to be constructed as part of the Village Project, on the School Property, and is expressly contingent on obtaining the approvals and legislative acts required from or by DuPage County, the DuPage County Regional Superintendent of Schools' Office, the VILLAGE and the SCHOOL DISTRICT.
3. SURVEY, DESIGN AND CONSTRUCTION OF ACCESS IMPROVEMENTS. The VILLAGE shall proceed with the surveying work, design and construction of the Access Improvements as part of the Village Project, with the estimated costs associated with said Access Improvements being, eleven thousand seven hundred ninety-two and no/100 dollars (\$11,792.00) for surveying and design work, and one hundred

nine thousand one hundred thirty-five and no/100 dollars (\$109,135.00) for construction; all as more fully set forth on Exhibits "C" and "D" attached hereto and made part hereof. Notwithstanding the estimated amounts as set forth above and in Exhibits "C" and "D", the actual costs associated with the surveying work, design and construction of the Access Improvements, as part of the Village Project, including, but not limited to, any utility relocations necessitated by the construction of the Access Improvements, shall be reimbursed to the VILLAGE, by the SCHOOL DISTRICT, upon receipt of an itemized bill(s) for said costs from the VILLAGE, in accordance with the provisions of the Local Government Prompt Payment Act (50 ILCS 505/1 et seq.).

4. CONVEYANCE OF ACCESS IMPROVEMENTS BY BILL OF SALE AND MAINTENANCE

THEREAFTER. Upon completion of the Access Improvements and confirmation by the SCHOOL DISTRICT that said Access Improvements have been constructed in substantial compliance with the plans and specifications therefor, pursuant to a review by the SCHOOL DISTRICT of a set of "as-built" drawings for said Access Improvements to be provided by the VILLAGE to the SCHOOL DISTRICT, the VILLAGE shall convey said Access Improvements to the SCHOOL DISTRICT, pursuant to a Bill of Sale, with the SCHOOL DISTRICT thereafter having the sole ownership of and maintenance obligation relative to said Access Improvements.

5. RIGHT-OF-ENTRY FOR SURVEYING, DESIGN AND CONSTRUCTION. The SCHOOL DISTRICT hereby grants to the VILLAGE, and the VILLAGE's officers, agents, employees, consultants and contractors, the right to enter upon the School Property for the purpose of surveying, designing and constructing the Access Improvements contemplated by this Agreement.

6. VILLAGE INDEMNIFICATION OF SCHOOL DISTRICT. The VILLAGE shall indemnify and hold harmless the SCHOOL DISTRICT, and its officers, agents and employees, with respect to any claim or loss, including, but not limited to, attorney's fees, costs and expenses of litigation, claims and judgments in connection with any and all claims for damages of any kind which may arise, either directly or indirectly, out

of the acts or omissions of the VILLAGE, or its officers, agents, employees, consultants or contractors, in the performance of this Agreement.

7. SCHOOL DISTRICT INDEMNIFICATION OF VILLAGE. The SCHOOL DISTRICT shall indemnify and hold harmless the VILLAGE, and its officers, agents and employees, with respect to any claim or loss, including, but not limited to, attorney's fees, costs and expenses of litigation, claims and judgments in connection with any and all claims for damages of any kind which may arise, either directly or indirectly, out of the acts or omissions of the SCHOOL DISTRICT, or its officers, agents or employees, in the performance of this Agreement.

8. NOTICES. Notice or other writings which either party is required to, or may wish to, serve upon the other party in connection with this Agreement shall be in writing and shall be delivered personally or sent by registered or certified mail, return receipt requested, postage prepaid, addressed as follows:

A. If to the VILLAGE:

Village Manager
Village of Lombard
255 East Wilson Avenue
Lombard, IL 60148

B. If to the SCHOOL DISTRICT

Superintendent
Lombard Elementary School District No.44
150 West Madison Street
Lombard, IL 60148

or to such other address, or additional parties, as either party may from time to time designate in a written notice to the other party.

9. COUNTERPARTS. This Agreement shall be executed simultaneously in two (2) counterparts, each of which shall be deemed an original, but both of which shall constitute one and the same Agreement.

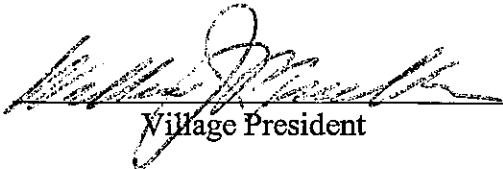
10. ENTIRE AGREEMENT. This Agreement contains the entire understanding between the parties and supersedes any prior understanding or written or oral agreements between them respecting the within subject matter. There are no representations, agreements, arrangements or understandings, oral or written, between and among the parties hereto relating to the subject matter of this Agreement which are not fully expressed herein.

11. EFFECTIVE DATE. This Agreement shall be deemed dated and become effective on the date the last of the parties execute this Agreement as set forth below.

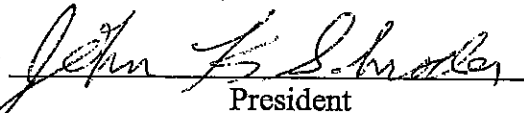
IN WITNESS WHEREOF, the VILLAGE, pursuant to authority granted by the adoption of a [Motion/Resolution] by its Board of Trustees, has caused this Agreement to be executed by its President and attested by its Clerk, and the SCHOOL DISTRICT, pursuant to the authority duly granted by the adoption of a [Motion/ Resolution] by its Board of Education, has caused this instrument to be signed by its President and attested by its Secretary.

VILLAGE OF LOMBARD

BOARD OF EDUCATION OF
LOMBARD SCHOOL DISTRICT NO. 44,
DUPAGE COUNTY, ILLINOIS



Village President

BY: 

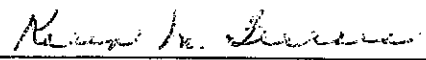
President

ATTEST:

ATTEST:



Village Clerk



Secretary

DATED: November 1, 2001

DATED: 11-6-01

EXHIBIT "A"

Lots 1 through 26, inclusive, in Block 3; Lots 1 through 10, inclusive, in Block 4; and that part of vacated Charlotte Street lying West of and adjacent to Lots 1 through 10, inclusive, in Block 4, and lying East of and adjacent to Lots 1 through 12, inclusive, in Block 3; of Pleasant Homes Addition, a subdivision of part of the Northwest 1/4 of Section 5, Township 39 North, Range 11, East of the Third Principal Meridian, DuPage County, Illinois;

P.I.N.: 06-05-117-001;

Common Address: Northeast Corner of Pleasant Avenue and Main Street
Lombard, Illinois.



August 22, 2001

Mr. Ray Schwab
Village of Lombard
255 East Wilson Avenue
Lombard, Illinois 60148

**Re: Lombard Hills East - Pleasant Lane School Improvements
Design Engineering Agreement Amendment No. 2**

Dear Mr. Schwab:

Based on our August 16, 2001 meeting with Mr. Ray Kauzlarich and Ms. Pam Schau with School District 44, we have prepared a proposal to add scope to the contract documents for the Lombard Hills East project. It is our understanding that the following items of work will be added to the scope of the improvements on, and adjacent to the Pleasant Lane School property:

- Addition of drop-off lane(s) along the south side of Berkshire Avenue between Main St. and Garfield St. (*Actual limits to be determined after design survey has been completed*)
- Construction of an 8 foot wide concrete sidewalk along the drop-off lane.
- Removal of the access driveway to the eastern school parking area from Pleasant Lane.
- Addition of a new access driveway from the northern edge of the existing parking area to Berkshire Avenue.

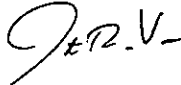
As part of these improvements, the items of work included on the Preliminary estimate of cost (See Attachment 2) will be necessary. This cost estimate was prepared with limited information, and is based on the desired scope of improvements expressed by the School District 44 staff. The following assumptions were made in preparing the preliminary estimate of cost:

- Grades between the proposed drop-off lane and the existing school property can transitioned with an earth slope rather than a retaining wall. (Easement onto School property will be required)
- The existing tennis courts, baseball field and playground will not be modified to accommodate the proposed work.
- Stormwater detention will not be required.
- Suitable sub-grade soils exist under the proposed driveway construction between the existing parking lot and Berkshire Avenue.
- Changes to the current eastern parking lot layout/configuration will not be required to accommodate the proposed driveway to Berkshire Avenue.
- This estimate does not include the cost to relocate any existing utilities that would be in conflict with the planned improvements.

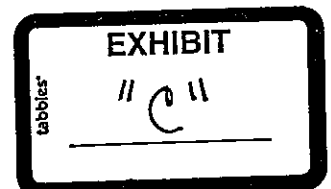
Please contact our Itasca office if the Village and the School District wish to proceed with this work as described above. Please do not hesitate to call with any questions.

Very truly yours,

CIVILTECH ENGINEERING, INC.


Jonathan R. Vana, P.E.

Enclosures



**AMENDMENT NO. 2
TO
LOMBARD HILLS EAST PHASES II, III & IV
DESIGN ENGINEERING AGREEMENT
August 22, 2001**

School District 44 desires to add a drop off lane for the Pleasant Lane School along Berkshire Avenue between Main Street and Garfield Street. Berkshire Avenue is part of Phase III of the Lombard Hills East residential street improvements planned by the Village of Lombard for construction during 2002. This amendment adds the design of the drop-off lane to the current design engineering contract with the Village for said improvements. Furthermore, the existing access to the eastern school parking lot from Pleasant Lane will be abandoned, and relocated north to Berkshire Avenue. The above described improvements will be added to the contract documents for Lombard Hills East Phase III, and will be constructed as part of the same project.

The following is a calculation of the fee required to add this work to the current design engineering contract for the Lombard Hills East Improvements between the Village and Civiltech Engineering, Inc:

Manhour Calculation

Meetings & Coordination with School and Village	12 hours
 <i><u>Modification of Current Plan Sheets:</u></i>	
Overall Plan (1 sheet)	2 hours
Typical Sections (2 sheets)	4 hours
Construction Staging / Maintenance of Traffic (2 sheets)	4 hours
Plan & Profile Berkshire Avenue (2 sheets)	20 hours
Drainage & Utilities Berkshire Avenue (2 sheets)	16 hours
Intersection Grading Plan - Berkshire & Charlotte (1 sheet)	4 hours
Cross Section Sheets (2 sheets)	20 hours
 <i><u>Add Plan Sheet (1" = 50') for On-Site Modifications/Improvements:</u></i>	
Develop & Field Check Base Sheet from Topographic Survey (survey by ERA, See Attachment A)	8 hours
Site Layout Design (Includes on-site modifications required because of eastern parking lot access relocation to Berkshire Avenue)	20 hours
Site Grading and Drainage	16 hours
Modify / Supplement Project Specifications	2 hours
Quantity Calculation & Estimate of Cost (School Improvements will be broken out separately)	<u>4 hours</u>
Total Manhours:	132 hours

The above manhour calculation is based on the presumption that detention will not be required for the added improvements. The original Lombard Hills East Phase III Project scope of work did not require detention to be provided under the DuPage County Stormwater Ordinance. Increased impervious area associated with the school's planned improvements does not appear to warrant detention under the Ordinance because the overall Project "development area" is less than one acre.

Furthermore, this scope of work assumes that an earth slope can be constructed to transition grading between the proposed drop-off lane and the existing school property. An easement will likely be required for the Village's Contractor to construct the proposed grading and sidewalk onto the school property because of the added width of the drop-off lane. The preparation of the plats and legal descriptions associated with this easement is not included in this scope of work.

We propose to perform the work outlined herein for a "not-to-exceed" maximum fee developed on the basis of the estimated manhours to complete the work. Compensation for our work will be based upon actual labor dollars expended times a factor of 2.60 to cover actual payroll, overhead and indirect costs, payroll burden and fringe benefit costs and profit. Direct costs such as printing, vehicle mileage and sub-consultant costs will be billed at their actual cost.

Calculation of Fee:

Labor Fee: 132 hours X \$26.20/hour average rate X 2.60	\$8,992
Design Survey Sub-Consultant (ERA, See Attachment 1)	\$2,750
Direct Costs:	
<i>Vehicle Mileage</i>	\$20.00
<i>Shipping</i>	<u>\$30.00</u>
Maximum "not-to exceed" Fee:	\$11,792

If the School District and the Village wish to proceed with this work, we respectfully request your approval of the additional fee as calculated above. The following summarizes changes to the design engineering contract amount for the Lombard Hills East Improvements:

▶ Original Contract (February 21, 2000)	\$198,604
▶ Amendment No. 1 added Phase IV (July 23, 2001) Amount = \$21,373	\$219,977
▶ Amendment No. 2 added Pleasant Avenue School Work (August 22, 2001) Amount = \$11,792	\$231,769

Please contact our Itasca Office if you require additional information or have any questions.

Very truly yours,

CIVILTECH ENGINEERING, INC.


Mark L. Hine, P.E.



ENGINEERING RESOURCE ASSOCIATES, INC.
Consulting Engineers & Surveyors

August 22, 2001

Mr. Jon Vana
Civiltech
500 Park Boulevard, Suite 250
Itasca, IL 60143

Subject: Proposal for Surveying Services
Lombard Hills East
Pleasant Lane School Property

Dear Jon:

Engineering Resource Associates, Inc. (ERA) is pleased to submit this proposal for surveying services for the subject project. The proposal is based upon your request for proposal and our knowledge of the project site.

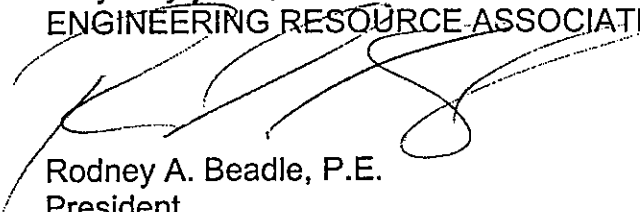
ERA will complete a field topographic survey along the north and east property lines of Pleasant Lane School. The survey limits will conform to the attached drawing. This task includes field work and preparation of a base plan of existing conditions. The base plan will be prepared using our AutoCAD based facilities.

ERA can complete this work within two weeks following receipt of authorization to proceed. Fees for surveying services described in this proposal are proposed on a lump sum basis of \$2,750.00.

We appreciate the opportunity to submit this proposal and trust that it meets with your approval. If acceptable, please sign the proposal where indicated below and return one (1) copy for our files. Receipt of executed proposal will serve as authorization to proceed with the project. The attached General Terms and Conditions are expressly incorporated into and are an integral part of this proposal for engineering services.

214 West Willow Avenue
Wheaton, Illinois 60187
(630) 668-5995
FAX 668-0693

Very truly yours,
ENGINEERING RESOURCE ASSOCIATES, INC.



Rodney A. Beadle, P.E.
President

RAB/jsw
Attachment

THIS PROPOSAL WITH GENERAL TERMS
AND CONDITIONS ACCEPTED & APPROVED
CIVILTECH

Authorized Signature

Typed Name & Title

Date

P:\Proposals\Civiltech\P010822pleasantlane.wpd



J:

MAIN STREET

NOT TO SCALE

1064 / SCHOOL. ti

SCHOOL

+500'

BERKSHIRE AVENUE

CHARLOTTE STREET

+100'

+600'

+180'

PROPERTY LINE

EXISTING R.O.W.

EXISTING R.O.W.

GARFIELD STREET

PLEASANT AVENUE



Engineering Resource Associates, Inc.

GENERAL TERMS AND CONDITIONS

1. **COMPLIANCE WITH LAWS:** Engineering Resource Associates, Inc. (Engineer) will strive to exercise usual and customary professional care in his efforts to comply with those laws, codes, ordinance and regulations which are in effect as of the date of this Agreement.

With specific respect to prescribed requirements of the Americans with Disabilities Act of 1990 or certified state or local accessibility regulations (ADA), Client understands ADA is a civil rights legislation and that interpretation of ADA is a legal issue and not a design issue and, accordingly, retention of legal counsel (by Client) for purposes of interpretation is advisable. As such and with respect to ADA, Client agrees to waive any action against Engineer, and to indemnify and defend Engineer against any claim arising from Engineer's alleged failure to meet ADA requirements prescribed.

2. **DESIGNATION OF AUTHORIZED REPRESENTATIVE:** Each party (to this Agreement) shall designate one or more persons to act with authority in its behalf in respect to appropriate aspects of the Project. The persons designated shall review and respond promptly to all communications received from the other party.

3. **STANDARD OF PRACTICE:** The Engineer will strive to conduct services under this Agreement in a manner consistent with that level of care and skill ordinarily exercised by members of the profession currently practicing in the same locality under similar conditions as of the date of this Agreement.

4. **GOVERNING LAW:** This Agreement shall be governed by and construed in accordance with Articles previously set forth by Item 1. of this Agreement, together with the laws of the State of Illinois.

5. **RESPONSIBILITY OF THE ENGINEER:** Engineer will strive to perform services under this Agreement in accordance with generally accepted and currently recognized engineering practices and principles, and in a manner consistent with that level of care and skill ordinarily exercised by members of the profession currently practicing in the same locality under similar conditions. No other representation, express or implied, and no warranty or guarantee is included or intended in this Agreement, or in any report, opinion, document, or otherwise. 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.

6. **CLIENT'S RESPONSIBILITIES:** The Client agrees to require the Contractor, to the fullest extent permitted by law, to indemnify, hold harmless, and defend the Engineer, its consultants, and the employees and agents of any of them from and against any and all claims, suits, demands, liabilities, losses, damages, and costs ("Losses"), including but not limited to costs of defense, arising in whole or in part out of the negligence of the Contractor, its subcontractors, the officers, employees, agents, and subcontractors of any of them, or anyone for whose acts any of them may be liable, regardless of whether or not such Losses are caused in part by a party indemnified hereunder. Specifically excluded from the foregoing are Losses arising out of the preparation or approval of maps, drawings, opinions, reports, surveys, change orders, designs, or specifications, and the giving of or failure to give directions by the Engineer, its consultants, and the agents and employees of any of them, provided such giving or failure to give is the primary cause of Loss.

The Client further agrees to require the Contractor to name the Engineer, its agents and consultants on the Contractor's policy or policies of comprehensive or commercial general liability insurance. Such insurance shall include products and completed operations and contractual liability coverages, shall be primary and noncontributing with any insurance maintained by the Engineer or its agents and consultants, and shall provide that the Engineer be given thirty days, unqualified written notice prior to any cancellation thereof.

In the event the foregoing requirements, or any of them, are not established by the Client and met by the Contractor, the Client agrees to indemnify and hold harmless the Engineer, its employees, agents, and consultants from and against any and all losses which would have been indemnified and insured against by the Contractor, but were not.

When Contract Documents prepared under the Scope of Services of this contract require insurance(s) to be provided, obtained and/or otherwise maintained by the Contractor, the Client agrees to be wholly responsible for setting forth any and all such insurance requirements. Furthermore, any document provided for Client review by the Engineer under this Contract related to such insurance(s) shall be considered as sample insurance requirements and not the recommendation of the Engineer. Client agrees to have their own risk management department review any and all insurance requirements for adequacy and to determine specific types of insurance(s) required for the project. Client further agrees that decisions concerning types and amounts of insurance are specific to the project and shall be the product of the Client. As such, any and all insurance requirements made part of Contract Documents prepared by the Engineer are not to be considered the Engineer's recommendation, and the Client shall make the final decision regarding insurance requirements.

7. **INFORMATION PROVIDED BY OTHERS:** The Engineer shall indicate to the Client the information needed for rendering of the services of this Agreement. The Client shall provide to the Engineer such information as is available to the Client and the Client's consultants and contractors, and the Engineer shall be entitled to rely upon the accuracy and completeness thereof. The Client recognizes that it is impossible to verify or because of errors or omissions which may have occurred in assembling the information the Client is providing. Accordingly, the Client agrees, to the fullest extent permitted by law, to indemnify and hold the Engineer and the Engineer's subconsultants harmless from any claim, liability or cost (including reasonable attorneys' fees and cost of defense) for injury or loss arising or allegedly arising from errors, omissions or inaccuracies in documents or other information provided by the Client to the Engineer.
8. **CHANGES:** 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, if commercially possible.
9. **DOCUMENTS DELIVERED TO CLIENT:** Drawings, specifications, and reports prepared by Engineer in connection with any or all of the services furnished hereunder shall be delivered to the Client for the use of the Client. Engineer shall have the right to retain originals of all Project Documents and drawings for its files. Furthermore, it is understood and agreed that the Project Documents such as, but not limited to reports, calculations, drawings, and specifications prepared for the Project, whether in hard copy or machine readable form, are instruments of professional service intended for one-time use in the construction of this Project. These Project Documents are and shall remain the property of the Engineer. The Client may retain copies, including copies stored on magnetic tape or disk, for information and reference in connection with the occupancy and use of the Project.

It is also understood and agreed that because of the possibility that information and data delivered in machine readable form may be altered, whether inadvertently or otherwise, the Engineer reserves the right to retain the original tapes/disks and to remove from copies provided to the Client all identification reflecting the involvement of the Engineer in their preparation. The Engineer also reserves the right to retain hard copy originals of all Project Documentation delivered to the Client in machine readable form, which originals shall be referred to and shall govern in the event of any inconsistency between the two.

The Client understands that the automated conversion of information and data from the system and format used by the Engineer to an alternate system or format cannot be accomplished without the introduction of inaccuracies, anomalies, and errors. In the event Project Documentation provided to the Client in machine readable form is so converted, the Client agrees to assume all risks associated therewith and, to the fullest extent permitted by law, to hold harmless and indemnify the Engineer from and against all claims, liabilities, losses, damages, and costs, including but not limited to attorney's fees, arising therefrom or in connection therewith.

The Client recognizes that changes or modifications to the Engineer's instruments of professional service introduced by anyone other than the Engineer may result in adverse consequences which the Engineer can neither predict nor control. Therefore, and in consideration of the Engineer's agreement to deliver its instruments of professional service in machine readable form, the Client agrees, to the fullest extent permitted by law, to hold harmless and indemnify the Engineer from and against all claims, liabilities, losses, damages, and costs, including but not limited to attorney's fees, arising out of or in any way connected with the modification, misinterpretation, misuse, or reuse by others of the machine readable information and data provided by the Engineer under this Agreement. The foregoing indemnification applies, without limitation, to any use of the Project Documentation on other projects, for additions to this Project, or for completion of this Project by others, excepting only such use as may be authorized, in writing, by the Engineer.

10. **REUSE OF DOCUMENTS:** All Project Documents including but not limited to reports, opinions of probable costs, drawings and specifications furnished by Engineer pursuant to this Agreement are intended for use on the Project only. They cannot be used by Client or others on extensions of the Project or any other project. Any reuse, without specific written verification or adaptation by Engineer, shall be at Client's sole risk, and Client shall indemnify and hold harmless Engineer from all claims, damages, losses, and expenses including attorney's fees arising out of or resulting therefrom.
11. **FORCE MAJEURE:** Neither Client nor Engineer shall be liable for any fault or delay caused by any contingency beyond their control including but not limited to acts of God, wars, strikes, walkouts, fires, natural calamities, or demands or requirements of governmental agencies.
12. **RELATIONSHIP BETWEEN ENGINEER AND CLIENT:** Engineer shall serve as Client's professional engineer consultant in those phases of the Project to which this Agreement applies. This relationship is that of a buyer and seller of professional services and as such the Engineer is an independent contractor in the performance of this Agreement and it is understood that the parties have not entered into any joint venture or partnership with the other. The Engineer shall not be considered to be the agent of the Client.
13. **SUSPENSION OF SERVICES:** Client may, at any time, by written order to Engineer (Suspension of Services Order) require Engineer to stop all, or any part, of the services required by this Agreement. Upon receipt of such an order, Engineer shall immediately comply with its terms and take all reasonable steps to minimize the costs associated with the services affected by such order. Client, however, shall pay all costs incurred by the suspension, including all costs necessary to maintain continuity and for the resumption of the services upon expiration of the Suspension of Services Order. Engineer will not be obligated to provide the same personnel employed prior to suspension, when the services are resumed, in the event that the period of suspension is greater than thirty (30) days.
14. **TERMINATION:** This Agreement may be terminated by either party upon thirty (30) days written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party. This Agreement may be terminated by Client, under the same terms, whenever Client shall determine that termination is in its best interests. Cost of termination, including salaries, overhead and fee, incurred by Engineer either before or after the termination date shall be reimbursed by Client.
15. **SUCCESSORS AND ASSIGNS:** The terms of this Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and assigns; provided, however, that neither party shall assign this Agreement in whole or in part without the prior written approval of the other.

16. **ENTIRE UNDERSTANDING OF AGREEMENT:** This Agreement represents and incorporates the entire understanding of the parties hereto, and each party acknowledges that there are no warranties, representations, covenants or understandings of any kind, matter or description whatsoever, made by either party to the other except as expressly set forth herein. Client and the Engineer hereby agree that any purchase orders, invoices, confirmations, acknowledgments or other similar documents executed or delivered with respect to the subject matter hereof that conflict with the terms of the Agreement shall be null, void and without effect to the extent they conflict with the terms of this Agreement.
17. **AMENDMENT:** This Agreement shall not be subject to amendment unless another instrument is duly executed by duly authorized representatives of each of the parties and entitled "Amendment of Agreement".
18. **PAYMENT:** Client shall be invoiced once each month for work performed during the preceding period. Client agrees to pay each invoice within thirty (30) days of its receipt. The client further agrees to pay interest on all amounts invoiced and not paid or objected to for valid cause within said thirty (30) day period at the rate of eighteen (18) percent per annum (or the maximum interest rate permitted under applicable law, whichever is the lesser) until paid. Client further agrees to pay Engineer's cost of collection of all amounts due and unpaid after sixty (60) days, including court costs and reasonable attorney's fees, as well as costs attributed to suspension of services accordingly. In the event legal action is necessary to enforce the payment provisions of this Agreement, the Engineer shall be entitled to collect from the Client any judgement or settlement sums due, reasonable attorneys' fees, court costs and expenses incurred by the Engineer in connection therewith and, in addition, the reasonable value of the Engineer's time and expenses spent in connection with such collection action, computed at the Engineer's prevailing fee schedule and expense policies. If the Client fails to make payments when due or otherwise is in breach of this Agreement, the Engineer may suspend performance of services upon five (5) calendar days' notice to the Client. The Engineer shall have no liability whatsoever to the Client for any costs or damages as a result of such suspension caused by any breach of this Agreement by the Client. Client will reimburse Engineer for all associated costs as previously set forth in Item 13 of this Agreement. Payments due Engineer are not contingent upon project approval or project financing and are the sole responsibility of the Client. If an invoice for work performed by Engineer remains unpaid sixty (60) days from the date of the invoice and, if there is no written resolution of payment from the client during the sixty (60) day period, Engineer will stop all work on the assignment.
19. **INDEMNIFICATION:** Engineer agrees, to the fullest extent permitted by law, to indemnify and hold harmless Client up to the amount of this contract fee (for services) from loss or expense, including reasonable attorney's fees to the extent caused by Engineer's negligent acts, errors or omissions in the performance of professional services under this Agreement. Client agrees, to the fullest extent permitted by law, to indemnify and hold harmless Engineer from any damage, liability or cost, including reasonable attorneys' fees and costs of defense, to the extent caused by the Client's negligent acts, errors or omissions and those of his or her contractors, subcontractors or consultants or anyone for whom the Client is legally liable, and arising from the project that is the subject of this Agreement. In the event of joint or concurrent negligence of Engineer and Client, each shall bear that portion of the loss or expense that its share of the joint or concurrent negligence bears to the total negligence (including that of third parties) which caused the personal injury or property damage. Engineer shall not be liable for special, incidental or consequential damages, including, but not limited to loss of profits, revenue, use of capital, claims of customers, cost of purchased or replacement power, or for any other loss of any nature, whether based on contract, tort, negligence, strict liability or otherwise, by reasons of the services rendered under this Agreement.
20. **LIMIT OF LIABILITY:** The Client and the Engineer have discussed the risks, rewards, and benefits of the project and the Engineer's total fee for services. In recognition of the relative risks and benefits of the Project to both the Client and the Engineer, the risks have been allocated such that the Client agrees that to the fullest extent permitted by law, the Engineer's total aggregate liability to the Client for any and all injuries, claims, costs, losses, expenses, damages of any nature whatsoever or claim expenses arising out of this Agreement from any cause or causes, including attorney's fees and costs, and expert witness fees and costs, shall not exceed the total Engineer's fee for professional engineering services rendered on this project as made part of this Agreement. Such causes included but are not limited to the Engineer's negligence, errors, omissions, strict liability or breach of contract. It is intended that this limitation apply to any and all liability or cause of action however alleged or arising, unless otherwise prohibited by law.

21. **NOTICES** Any notice or designation required to be given to either party hereto shall be in writing, and unless receipt of such notice is expressly required by the terms hereof shall be deemed to be effectively served when deposited in the mail with sufficient first class postage affixed, and addressed to the party to whom such notice is directed at such party's place of business or such other address as either party shall hereafter furnish to the other party by written notice as herein provided.
22. **ACCESS AND PERMITS:** Client shall arrange for Engineer to enter upon public and private property and obtain all necessary approvals and permits required from all governmental authorities having jurisdiction over the Project. Client shall pay costs (including Engineer's employee salaries, overhead and fee) incident to any effort by Engineer toward assisting Client in such access, permits or approvals, if Engineer perform such services.
23. **WAIVER OF CONTRACT BREACH:** The waiver of one party of any breach of the Agreement or the failure of one party to enforce at any time, or for any period of time, any of the provisions hereof, shall be limited to the particular instance, shall not operate or be deemed to waive any future breaches of this Agreement and shall not be construed to be a waiver of any provision, except for the particular instance.
24. **OPINIONS OF PROBABLE COST:** Since Engineer has no control over the cost of labor, materials or equipment, or over the Contractor(s) method of determining process, or over competitive bidding or market conditions, his opinions of probable Project Construction Cost provided for herein are to be made on the basis of his experience and qualifications and represent his best judgement as a design professional familiar with the construction industry, but Engineer cannot and does not guarantee that proposal, bids or the Construction Cost will not vary from opinions of probable construction cost prepared by him. If prior to the Bidding or Negotiating Phase, Client wishes greater accuracy as to the Construction Cost, the Client shall employ an independent cost estimator Consultant for the purpose of obtaining a second construction cost opinion independent from Engineer.
25. **CONSTRUCTION OBSERVATION CLAUSE:** When construction observation tasks are part of the service to be performed by the Engineer under this Contract, the Owner will include the following clause in the construction contract documents and Owner agrees not to modify or delete it:
- Kotedi Waiver:** Contractor (and any subcontractor into whose subcontract this clause is incorporated) agrees to assume the entire liability for all personal injury claims suffered by its own employees, including without limitation claims under the Illinois Structural Work Act, asserted by persons allegedly injured on the Project; waives any limitation of liability defense based upon the Workers Compensation Act, court interpretations of said Act or otherwise; and agrees to indemnify and defend Owner and Engineer and their agents, employees and consultants (the "Indemnitied") from and against all such loss, expense, damage or injury, including reasonable attorneys' fees, that the indemnitied may sustain as a result of such claims, except to the extent that Illinois law prohibits indemnity for the indemnitied's own negligence.
26. **SEVERABILITY OF INVALID PROVISIONS:** If any provision of the Agreement shall be held to contravene or to be invalid under the laws of any particular state, county or jurisdiction where used, such contravention shall not invalidate the entire Agreement, but it shall be construed as if not containing the particular provisions held to be invalid in the particular state, county or jurisdiction and the rights or obligations of the parties hereto shall be construed and enforced accordingly.
27. **HAZARDOUS MATERIALS:** It is acknowledged by both parties that Engineer's scope of services does not include any services related to asbestos or hazardous or toxic materials. In the event Engineer or any other party encounters asbestos or hazardous or toxic materials at the job site, or should it become known in any way that such materials may be present at the job site or any adjacent areas that may affect the performance of Engineer's services, Engineer may at his option and without liability for consequential or any other damages, suspend performance of services on the project until Client retains appropriate specialist consultant(s) or contractor(s) to identify, abate and/or remove the asbestos or hazardous or toxic materials, and warrant that the job site is in full compliance with applicable laws and regulations.

End of General Terms and Conditions

Pleasant Lane School Improvements
Preliminary Estimate of Cost
-Attachment 2-

<u>Item of Work</u>	<u>Cost</u>
Tree Removal and/or Relocation	\$6,000
Curb & Gutter Removal	\$500
Earth Excavation	\$8,000
Pavement Removal	\$3,000
Sidewalk Removal	\$3,000
Bituminous Pavement	\$32,500
Combination Concrete Curb & Gutter	\$5,400
P.C.C. Sidewalk (8' wide)	\$14,000
Proposed Drainage	\$14,000
Relocate Existing Signage	\$1,750
Landscape Restoration	\$3,000
Pavement Marking	\$1,500
Collapsible Bollards	\$2,250
<i>sub-total</i>	\$94,900
<i>15% Contingency</i>	\$14,235
<u>Total Estimated Cost:</u>	\$109,135

