

VILLAGE OF LOMBARD

HIGHLAND AVENUE TANK REHABILITATION

CONTRACT DOCUMENT NUMBER WA 20 01

This agreement is made this 5th day of September, 2019, by and between, and shall be binding upon, the Village of Lombard, an Illinois municipal Corporation hereinafter referred to as (the "Village") and (Utility Service Co., Inc.) hereinafter referred to as (the "Contractor").

Witnesseth That in consideration of the mutual promises of the parties delineated in the Contract Documents, the Contractor agrees to provide asset management and tank maintenance/rehabilitation services and the Village agrees to pay for the following described items as set forth in the Contract Documents:

Highland Avenue Tank Rehabilitation
in an amount not to exceed \$530,395.00 for Year 1

1. This Contract shall embrace and include all of the applicable Contract Documents listed below as if attached hereto or repeated herein. Each September, the Board of Trustees will take executive action to approve each payment in the respective year it is due. This agreement and payments are subject to available funding.
 - a. The Contractor's Proposal dated August 8, 2019
 - a. Year 1: \$530,395.00 – Tank Rehabilitation
 - b. Year 2: \$33,788.00
 - c. Year 3: \$34,984.00
 - d. Year 4: \$36,222.00
 - e. Year 5: \$37,504.00
 - f. Year 6: \$38,832.00
 - g. Year 7: \$40,206.00
 - h. Year 8: \$41,629.00
 - i. Year 9: \$43,103.00
 - j. Year 10: \$44,629.00
 - k. Year 11: \$46,209.00
 - l. Year 12: \$47,845.00
 - m. Year 13: \$49,538.00
 - n. Year 14: \$51,292.00
 - o. Year 15: \$53,108.00 – Tank Rehabilitation
 - b. Required Certificate of Insurance, Indemnification, Venue, Other Contractor Responsibilities


2. The Village agrees to pay, and the Contractor agrees to accept as full payment for the items which are the subject matter of this Contract the total sum of \$530,395.00 paid in accordance with the provisions of the Local Government Prompt Payment Act and the provisions of the Contract Documents.
3. Risk of loss, destruction or damage of or to goods under this Contract shall be on contractor until delivery of the goods to the Village and acceptance of the goods by the Village.
4. The Contractor agrees to perform the terms of this Contract according to the following schedule set forth in their proposal after the Notice to Proceed has been delivered. Time is of the essence of this Contract.

IN WITNESS WHEREOF, the Village of Lombard, Illinois by Village President, and the Contractor have hereunto set their hands this 5th day of September 2019.

If an individual or partnership, all individual names of each partner shall be signed or if a corporation, an officer duly authorized shall sign here:

Accepted this 16th day of August, 2019.

Individual or Partnership _____ Corporation X


 By Jonathan Cato Senior VP, Advanced Solutions LOB
 Position/Title

By _____ Position/Title

Utility Service Co., Inc.
 Print Company Name

THE VILLAGE OF LOMBARD, ILLINOIS

Accepted this 5th day of September 2019.



Keith T. Giagnorio
Village President

Attest:



Sharon Kuderna
Village Clerk

**VILLAGE OF LOMBARD
CONTRACTOR'S CERTIFICATION**

Jonathan Cato, having been first duly sworn, depose and states as follows:
(Officer or Owner of Company)

I am the Senior Vice President, Advanced Solutions LOB for Utility Service Co., Inc.,
(Title) (Name of Company)
(the "Contractor"), which has submitted a proposal for Highland Avenue Tank Rehabilitation to the Village of Lombard and, having personal knowledge of the matters certified to herein, and being authorized by the Contractor to make the certifications set forth herein, hereby certifies that said Contractor:

1. has a written sexual harassment policy in place, in full compliance with 775 ILCS 5/2-105(A) (4);
2. is not delinquent in the payment of any tax administered by the Illinois Department of Revenue, or if it is:
 - a. it is contesting its liability for the tax or the amount of tax in accordance with procedures established by the appropriate revenue Act; or
 - b. it has entered into an agreement with the Department of Revenue for payment of all taxes due and is currently in compliance with that agreement;
3. is in full compliance with the Federal Highway Administration Rules on Controlled Substances and Alcohol Use and Testing, 49 CFR Parts 40 and 382, and that all employee drivers

(Name of employee/driver or "all employee drivers")

is/are currently participating in a drug and alcohol testing program pursuant to the aforementioned rules; and

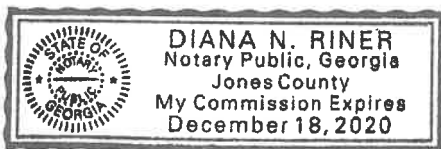
4. is not barred from contracting with any unit of state or local government as a result of a violation of either Section 33E-3 or 33E-4 of Article 33E of the Illinois Criminal Code of 1961.

By: _____
Authorized Agent of Contractor

Subscribed and sworn to
before me this 16th day of
August, 2019.

Diana N. Riner

Notary Public



SCOPE OF WORK NO. 1
TO THE MASTER SERVICES AGREEMENT BETWEEN
UTILITY SERVICE CO., INC.
AND
VILLAGE OF LOMBARD, IL

WATER TANK MAINTENANCE – 1,000,000 GALLON PEDISPHERE – HIGHLAND AVE TANK

1. **Effective Date.** The Effective Date for this Scope of Work No. 1 (“SOW1”) shall be Sept. 5, 2019.
2. **Term.** The Owner agrees to engage the Company to provide the professional service needed to maintain its 1,000,000 gallon water storage tank located at 2020 South Highland, Lombard, Illinois 60148 (hereinafter “tank”). This SOW1 shall commence on the Effective Date and shall continue in full force and effect for one year (“Contract Year 1”). This SOW1 will automatically renew for successive one-year terms (“Contract Years”) unless terminated as set forth in Section 9 of the Master Services Agreement.
3. **Company’s Responsibilities.** This SOW1 outlines the Company’s responsibility for the care and maintenance of the above described water storage tank. Care and maintenance include the following:
 - A. The Company will annually inspect and service the tank. The tank and tower will be thoroughly inspected to ensure that the structure is in a sound, watertight condition.
 - B. Biennially, beginning with the first washout/inspection, the tank will be completely drained and cleaned to remove all mud, silt, and other accumulations that might be harmful to the tank or its contents. After cleaning is completed, the interior will be thoroughly inspected and disinfected prior to returning the tank to service; however, the Owner is responsible for draining and filling the tank and conducting any required testing of the water. A written report will be mailed to the Owner after each inspection.
 - C. The Company shall furnish engineering and inspection services needed to maintain and repair the tank and tower during the term of this SOW1. The repairs include: steel parts, expansion joints, water level indicators, sway rod adjustments, and manhole covers/gaskets.
 - D. The Company will clean and repaint the interior and/or exterior of the tank at such time as complete repainting is needed. The need for interior painting is to be determined by the thickness of the existing liner and its protective condition. When interior repainting is needed, procedures as outlined in A.W.W.A.-D102 specifications for cleaning and coating of potable water tanks will be followed. Only material approved for use in potable water tanks will be used on any interior surface area. The need for exterior painting is to be determined by the appearance and protective condition of the existing paint. At the time the exterior requires repainting,

the Company agrees to paint the tank with the same color paint and to select a coating system which best suits the site conditions, environment, and general location of the tank. When painting is needed, all products and procedures will be equal to, or exceed the requirements of the **State of Illinois**, the American Water Works Association, and the Society for Protective Coatings as to surface preparation and coating materials.

E. A lock will be installed on the roof hatch of the tank.

F. The Company will provide emergency services, when needed, to perform all repairs covered under this SOW1. Reasonable travel time must be allowed for the repair unit to reach the tank site.

G. The Company will furnish pressure relief valves, if requested by the Owner, so that the Owner can install the valves in its water system while the tank is being serviced.

H. The Company will furnish current certificates of insurance coverage to the Owner.

I. Mixing System Installation and Service.

1. The Company shall install an active mixing system in the Tank.
2. The particular unit that will be installed in the Tank is a NSF Approved PAX 400 active mixing system along with its component parts.
3. The Company will inspect and service the active mixing system when the tank is drained for washout inspections. The active mixing system will be thoroughly inspected to ensure that the active mixing system is good working condition. The Company shall furnish engineering and inspection services needed to maintain and repair the active mixing system during the term of this Contract.
4. The Owner shall be responsible for draining the tank if determined necessary by the Company due to operational problems with the mixing system. The provisions of Section 1.B shall be followed in this circumstance.

J. In the event that the Owner will not release the tank for service or is the cause of unreasonable delay in the performance of any service herein, the Company reserves the right to renegotiate the annual fees, and the Owner agrees to renegotiate the annual fees in good faith. In addition, the Owner hereby agrees that the Company can replace a washout inspection with a visual inspection, ROV inspection, or UAV inspection without requiring modification of this Contract.

4. **Contract Price/Annual Fees.** The tank shall receive an **exterior renovation, interior wet-renovation, interior-dry renovation, mixing system installation and repairs** prior to the end of Contract Year 1. The first (1) annual fee shall be **\$530,395.00**. The annual fee for Contract Year (2) shall be **\$33,788.00**; however, in Contract Year (3) and each anniversary thereafter, the annual fee shall be adjusted to reflect the current cost of service. The adjustment of the annual fee shall be limited to a maximum of 5% annually. All applicable taxes are the responsibility of the Owner and are in addition to the stated costs and fees in this SOW1.
5. **Payment Terms.** The annual fee for Contract Year 1, plus all applicable taxes, shall be due and payable **upon completion of the exterior renovation, interior wet renovation, interior dry renovation, mixing system installation and repairs**. See **Attached Schedule A for Specifications of the work to be performed; said Schedule A is incorporated herein by reference. Also, please see Schedule B, which is attached hereto and incorporated herein by reference and sets forth the annual fees for Contract Years 1 through 15 as well as the Schedule of Work. Each subsequent annual fee, plus all applicable taxes, shall be due and payable on the first day of each Contract Year, thereafter.** Furthermore, if the Owner elects to terminate this SOW1 prior to remitting the first (1) annual fee, then unpaid balance of the first (1) annual fee shall be due and payable within thirty (30) days of the Company's receipt of the Owner's Notice to Terminate.
6. **Structure of Tank.** The Company is accepting this tank under program based upon its existing structure and components. ***Any modifications to the tank, including antenna installations, shall be approved by Utility Service Co., Inc., prior to installation and may warrant an increase in the annual fee.***
7. **Environmental, Health, Safety, or Labor Requirements.** The Owner hereby agrees that future mandated environmental, health, safety, or labor requirements as well as changes in site conditions at the tank site which cause an increase in the cost of tank maintenance will be just cause for modification of this SOW1. Said modification of this SOW1 will reasonably reflect the increased cost of the service with a newly negotiated annual fee.

Owner shall be responsible for having all antenna and coax removed from the tank prior to the renovations.

The work performed under this Contract is subject to prevailing wages, and the workers who are performing work under this Contract are to be paid no less than the prevailing hourly rate of wages as set by the appropriate authority. Any future work performed by workers under this Contract will be subject to the wage determination of the appropriate authority which is in effect when the work is performed. However, the Owner and the Company hereby agree that if the prevailing wage rates for any job or trade classification increases by more than 5% per annum from the effective date of this Contract to the date in which any future work is to be performed under this Contract, then the Company reserves the right to re-negotiate the annual fee(s) with the Owner. If the Company and the Owner cannot agree on re-negotiated annual fee(s), then: (1) the Company will not be obligated to perform the work and (2) the Company will not be obligated to return past annual fee(s) received by the Company.

8. **Excluded Items.** This SOW1 does NOT include the cost for and/or liability on the part of the Company for: (1) containment of the tank at any time during the term of the SOW1; (2) disposal of any hazardous waste materials; (3) resolution of operational problems or structural damage due to cold weather; (4) repair of structural damage due to antenna installations or other attachments for which the tank was not originally designed; (5) resolution of operational problems or repair of structural damage or site damage caused by physical conditions below the surface of the ground; (6) negligent acts of Owner's employees, agents or contractors; (7) damages, whether foreseen or unforeseen, caused by the Owner's use of pressure relief valves; (8) repairs to the foundation of the tank; (9) any latent defects of the tank or its components (i.e., corrosion from the underside of the floor plates or corrosion in areas not accessible to maintain); or (10) other conditions which are beyond the Owner's and Company's control, including, but not limited to: acts of God and acts of terrorism. Acts of terrorism include, but are not limited to, any damage to the tank or tank site which results from unauthorized entry of any kind to the tank site or tank.

9. **Visual Inspection Disclaimer.** This SOW1 is based upon a visual inspection of the Tank. The Owner and the Company hereby acknowledge and agree that a visual inspection is intended to assess the condition of the Tank for all patent defects. If latent defects are identified once the tank has been drained for repairs, the Owner agrees and acknowledges that the Company shall not be responsible to repair the latent defects unless the Owner and the Company renegotiate the annual fees. The definition of a "latent defect" shall be any defect of the Tank which is not easily discovered (e.g., corrosion of the floor plates, corrosion in areas not accessible to maintain, damage to the roof of the tank which is not clearly visible during the visual inspection, etc.).

SIGNATURE PAGE TO FOLLOW.

The SOW1 is executed and effective as of the date last signed by the parties below.

OWNER

Village of Lombard

By: 

Name: Keith Giagnorio

Title: Village of President

Date: September 5, 2019

COMPANY

Utility Service Co., Inc.

By: 

Name: Jonathan Cato

Title: Senior VP, Advanced Solutions LOB

Date: August 1, 2019

SCHEDULE A

VILLAGE OF LOMBARD SCHEDULE OF WORK TO BE ACCOMPLISHED UNDER THE "FULL SERVICE MAINTENANCE PROGRAM"

YEAR 1 (2020)

Exterior Coatings

1. All exterior surfaces must be pressure washed with a minimum of 4,000 P.S.I. washer to remove any surface contamination.
2. All rusted areas must be Hand/Power tool cleaned per SSPC-SP2, SP3 cleaning methods.
3. All rusted or bare areas must be spot primed with a rust inhibitive metal primer.
4. One (1) full intermediate coat of a Tnemec compatible Series coating shall be applied to complete exterior surfaces at manufacturer's recommended thickness (100%).
5. One (1) full finish coat of a Tnemec Series 700 Hydroflon coating shall be applied to complete exterior surfaces at manufacturer's recommended thickness (100%).
6. Use same logo/layout and color scheme
7. Paint all concrete foundations

Interior-Wet Specifications

1. The complete interior (100%) shall be abrasive blast cleaned to SSPC-SP No. 10 "Near White" finish.
2. After abrasive cleaning, all surfaces shall be cleaned of any dust residue or foreign debris.
3. A high build epoxy liner manufactured by the Tnemec Company shall be applied as follows:
 - *Primer Coat*: One [1] complete coat of Tnemec Series Zinc 94 H2O or equivalent shall be applied at the manufacturer's recommended thickness.
 - *Finish Coat*: One [1] complete finish coat of Tnemec Series N140 Epoxy or equivalent shall be applied at the manufacturer's recommended thickness.
 - a. *Contrasting Color*: Each coat of epoxy paint shall be of contrasting color.
 - b. *Stripe Coat*: One additional coat of epoxy shall be applied by brush and roller to all weld seams.
4. After the liner has properly cured, the interior surfaces shall be disinfected per A.W.W.A. Spray Method No. 2 (200 PPM).
5. The spent abrasive media shall be tested per TCLP-(8) Heavy Metals as mandated by the State.
6. Once the tests results confirm the non-hazardous status of the wastes, the spent abrasive shall be disposed of properly.
7. The Tank shall be sealed and made ready for service.

Interior -Dry Specifications

1. The complete dry interior (100%) shall be "brush off" blast cleaned to SSPC-SP No. 7 finish.
2. After abrasive cleaning, all surfaces shall be cleaned of any dust residue or foreign debris.
3. A high build epoxy liner manufactured by the Tnemec Company shall be applied as follows:

One [1] complete finish coat of Tnemec Series N140 Epoxy or equivalent shall be applied at the manufacturer's recommended thickness.

4. After the liner has properly cured, the interior surfaces shall be disinfected per A.W.W.A. Spray Method No. 2 (200 PPM).

5. The spent abrasive media shall be tested per TCLP-(8) Heavy Metals as mandated by the State.

6. Once the tests results confirm the non-hazardous status of the wastes, the spent abrasive shall be disposed of properly.

7. The Tank shall be sealed and made ready for service.

Repairs: All repairs outlined in the Dixon report from 2014 and the following:

- • Install PWM400 Mixing System with controller, conduit, and wire to roof.
- • Note: Electrical permit, conduit/wiring from controller into existing panel by Village.
- • Install new 30" roof-hatch to wet storage (in location closer to riser tube).
- • Install new fixed ladder below new wet hatch on wet side of riser to floor of vessel.
- • Install new mud valve.
- • Install safety tie off rail from hatches to center vent
- • Install braided cable safety climb on all ladders.
- • Note: Village responsible for purchase of new safety climb harness (liability issues).
- • Install "rail style" tie-off points from center hatch to perimeter appurtanences
- • Install new hinged lids for deck penetrations at both cond decks (2-lids total).
- • Coat the exposed foundation top.
- • Replace the glandular expansion joint & replace with bellows-type joint.
- • Install a deflector plate in the OF inlet
- • Vault Piping: Abrasive blast clean (SP6) and apply 2-coat epoxy .
- • Note: This is 1 time only service (vault pipe is not covered on MP)

YEAR 2 (2021)

Inspection Service

1. Engineering inspection and preventive maintenance.
2. Any needed repairs/touchup.
3. Provide emergency repair service.
4. Ensure tank complies with all federal and state regulations.
5. Maintain as per the maintenance program

YEAR 3 (2022)**Inspection Service**

1. Washout, disinfect, and inspect the tank.
2. Any needed repairs/touchup.
3. Provide emergency repair service.
4. Ensure Tank complies with all federal and state regulations.
5. Maintain as per the maintenance program

YEAR 4 (2023)**Inspection Service**

1. Engineering inspection and preventive maintenance.
2. Any needed repairs/touchup.
3. Provide emergency repair service.
4. Ensure tank complies with all federal and state regulations.
5. Maintain as per the maintenance program.

YEAR 5 (2024)**Inspection Service**

1. Washout, disinfect, and inspect the tank.
2. Any needed repairs/touchup.
3. Provide emergency repair service.
4. Ensure Tank complies with all federal and state regulations.
5. Maintain as per the maintenance program

YEAR 6 (2025)**Inspection Service**

1. Engineering inspection and preventive maintenance.
2. Any needed repairs/touchup.
3. Provide emergency repair service.
4. Ensure tank complies with all federal and state regulations.
5. Maintain as per the maintenance program.

YEAR 7 (2026)

Inspection Service

1. Washout, disinfect, and inspect the tank.
2. Any needed repairs/touchup.
3. Provide emergency repair service.
4. Ensure Tank complies with all federal and state regulations.
5. Maintain as per the maintenance program

YEAR 8 (2027)

Inspection Service

1. Engineering inspection and preventive maintenance.
2. Any needed repairs/touchup.
3. Provide emergency repair service.
4. Ensure tank complies with all federal and state regulations.
5. Maintain as per the maintenance program.

YEAR 9 (2028)

Inspection Service

1. Washout, disinfect, and inspect the tank.
2. Any needed repairs/touchup.
3. Provide emergency repair service.
4. Ensure Tank complies with all federal and state regulations.
5. Maintain as per the maintenance program

YEAR 10 (2029)

Inspection Service

1. Engineering inspection and preventive maintenance.
2. Any needed repairs/touchup.
3. Provide emergency repair service.
4. Ensure tank complies with all federal and state regulations.
5. Maintain as per the maintenance program

YEAR 11 (2030)

Inspection Service

1. Washout, disinfect, and inspect the tank.
2. Any needed repairs/touchup.
3. Provide emergency repair service.
4. Ensure Tank complies with all federal and state regulations.
5. Maintain as per the maintenance program

YEAR 12 (2031)

Inspection Service

1. Engineering inspection and preventative maintenance.
2. Any needed repairs/touchup.
3. Provide emergency repair service.
4. Ensure Tank complies with all federal and state regulations.
5. Maintain as per the maintenance program

YEAR 13 (2032)

Inspection Service

1. Washout, disinfect, and inspect the tank.
2. Any needed repairs/touchup.
3. Provide emergency repair service.
4. Ensure Tank complies with all federal and state regulations.
5. Maintain as per the maintenance program

YEAR 14 (2033)

Inspection Service

1. Engineering inspection and preventative maintenance.
2. Any needed repairs/touchup.
3. Provide emergency repair service.
4. Ensure Tank complies with all federal and state regulations.
5. Maintain as per the maintenance program

YEAR 15 (2034) Full Coatings Renovations

Exterior Coatings

1. All exterior surfaces must be pressure washed with a minimum of 4,000 P.S.I. washer to remove any surface contamination.
2. All rusted areas must be Hand/Power tool cleaned per SSPC-SP2, SP3 cleaning methods.
3. All rusted or bare areas must be spot primed with a rust inhibitive metal primer.
4. One (1) full finish coat of a Tnemec Series 700 Hydroflon coating shall be applied to complete exterior surfaces at manufacturer's recommended thickness (100%).
6. Use same logo/layout and color scheme
7. Paint all concrete foundations

Interior-Wet Specifications

1. The complete interior (100%) shall be abrasive blast cleaned to SSPC-SP No. 10 "Near White" finish.
2. After abrasive cleaning, all surfaces shall be cleaned of any dust residue or foreign debris.
3. A high build epoxy liner manufactured by the Tnemec Company shall be applied as follows:
 - *Primer Coat:* One [1] complete coat of Tnemec Series Zinc 94 H2O or equivalent shall be applied at the manufacturer's recommended thickness.
 - *Finish Coat:* One [1] complete finish coat of Tnemec Series N140 Epoxy or equivalent shall be applied at the manufacturer's recommended thickness.
 - a. *Contrasting Color:* Each coat of epoxy paint shall be of contrasting color.
 - b. *Stripe Coat:* One additional coat of epoxy shall be applied by brush and roller to all weld seams.
4. After the liner has properly cured, the interior surfaces shall be disinfected per A.W.W.A. Spray Method No. 2 (200 PPM).
5. The spent abrasive media shall be tested per TCLP-(8) Heavy Metals as mandated by the State.
6. Once the tests results confirm the non-hazardous status of the wastes, the spent abrasive shall be disposed of properly.
7. The Tank shall be sealed and made ready for service.

Interior -Dry Specifications

1. Perform Interior dry coatings touch up as needed.

"SCHEDULE B"

Year	1	2	3	4	5
Highland Ave Tank	\$530,395	\$33,788	\$34,984	\$36,222	\$37,504

Year	6	7	8	9	10
Highland Ave Tank	\$38,832	\$40,207	\$41,630	\$43,104	\$44,629

Year	11	12	13	14	15
Highland Ave Tank	\$46,209	\$47,845	\$49,538	\$51,292	\$53,108

MASTER SERVICES AGREEMENT
Terms and Conditions

This MASTER SERVICES AGREEMENT ("Agreement") is entered into by and between VILLAGE OF LOMBARD, ILLINOIS, with a principal business address of 255 East Wilson, Lombard, Illinois 60148 ("Owner"), and UTILITY SERVICE CO., INC., a Georgia corporation with a principal business address of 1230 Peachtree Street NE, Suite 1100, Atlanta, Georgia 30309 ("Company").

WHEREAS, the Owner and Company (collectively, "the Parties") desire for Company to provide services to Owner under the terms set forth herein;

NOW THEREFORE, in consideration of the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. Scope. The Company agrees to provide the Owner with certain services ("Services") set forth on each properly executed Scope of Work ("SOW") to be attached hereto and incorporated herein by reference. Each SOW shall be subject to the general terms and conditions (the "Terms and Conditions") set forth in this Agreement. Each time Owner engages Company to perform Services, a new SOW shall be prepared specifying the scope of Services specific to that engagement. Unless otherwise indicated in any given SOW, Company shall be responsible for furnishing all labor and materials to perform the Services. Each new SOW represents a separate contract between Company and Owner that incorporates the Terms and Conditions and is governed by this Agreement. All changes to any SOW may only be made by a written amendment to such SOW and signed by an authorized representative of each Party. Owner may terminate a SOW in accordance with the terms of each SOW. In the event there is a conflict between any term of an SOW and this Agreement, the term(s) of the SOW shall control.

2. Term. The effective date of this Agreement shall be Sept. 5, 2019 ("Effective Date"). The term of this Agreement shall commence on the Effective Date and shall continue in full force and effect for one year ("Term"). This Agreement will automatically renew for successive one-year terms ("Renewal Terms") unless terminated as set forth in Section 9 of this Agreement. The term of an SOW shall begin on the commencement date provided in that SOW and continue in effect for the agreed term provided in that SOW.

3. Fees. For all Services performed, Owner shall pay Company in accordance with the terms of each SOW. The fees paid in accordance with each SOW shall constitute the full and complete compensation to Company for the Services performed pursuant to the SOW. Unless otherwise expressly set forth in any given SOW, Company shall be responsible for expenses it incurs in connection with its provision of the Services.

4. Independent Contractor. Company is, and shall at all times remain, an independent contractor. Company and each of Company's employees and principals shall not be deemed for any purpose to be Owner's employees, and they shall not be entitled to any claims, rights, benefits and privileges to which an employee of Owner or any of its respective affiliates may be entitled under any retirement, pension, insurance, medical or other plans which may now be in effect or which may hereafter be adopted. Owner is not responsible to any governing body or to Company for paying or withholding payroll taxes and other employee expenses related to payments made to Company. Notwithstanding anything to the contrary,

this Agreement does not, and shall not be deemed to, constitute a partnership or joint venture between the Parties and neither Party nor any of their respective directors, officers, officials, or employees shall, by virtue of the performance of their obligations under this Agreement, be deemed to be an agent or employee of the other. No Party has the authority to bind another Party except to the extent approved in writing by the Party to be bound.

5. Insurance. Company shall maintain statutory minimum Worker's Compensation as required by the laws of any jurisdiction in which Services are performed, and commercial general liability insurance covering Company's liabilities hereunder and for injury to persons or damage to property with limits of not less than \$2,000,000 per occurrence. Upon Owner's request, Company shall furnish Owner with a certificate of insurance evidencing this coverage.

6. Representations. Company represents and warrants that Company has the full power and authority to enter into and perform this Agreement; that the execution, delivery and performance of this Agreement has been duly authorized and constitutes a valid and binding agreement of Company; and that the execution, delivery and performance of this Agreement will not result in the breach of, or constitute a default under, or violate any provision of, any agreement or other instrument to which Company is a party to a non-competition agreement or bound by any competitive restrictive covenant concerning or relating to, in any manner, the performance by Company of services similar to the Services to be performed hereunder.

7. Indemnification. Company shall indemnify Owner and its officers and officials from and against any claims, actions, and suits resulting from Company's negligence while performing the Services hereunder. Company's indemnification obligations hereunder shall be subject to Owner's prompt notification to Company with respect to the pertinent third-party claim(s).

8. Assignment of Receivables. The Company reserves the right to assign any outstanding receivables from this Contract to its financial institutions as collateral for any loans or lines of credit.

9. Termination. This Agreement or any SOW may be terminated by either Party if written notice of termination is received by the non-terminating Party at least ninety (90) days before the commencement of the upcoming Renewal Term. If the notice of termination is not received at least ninety (90) days before the commencement of the upcoming Renewal Term, this Agreement shall renew for the upcoming Renewal Term of one-year, and then terminate at the expiration of that Renewal Term. In the event of termination by Owner, Owner shall pay Company any amounts due or owing pursuant to all SOWs for products and/or services delivered by Company prior to the date of termination, unless otherwise agreed by the Parties in SOW(s).

10. Intellectual Property. The Owner acknowledges that all intellectual property rights in the Services, their method of delivery, and all related know-how are owned by the Company or its licensors. The Owner hereby agrees and acknowledges that this Agreement and its SOWs shall not be construed as a license for the Owner to use, deliver, or exploit the intellectual property used by the Company in delivering the Services. To the extent that any new intellectual property or know-how is developed as a result of carrying out the Services, the new intellectual property rights will all be owned by the Company or its licensors, and the Owner agrees that it will not make a claim to any such new intellectual property rights.

11. Limitation of Liability. IN NO EVENT SHALL EITHER PARTY OR ITS RESPECTIVE DIRECTORS, OFFICERS, OFFICIALS, AND EMPLOYEES BE LIABLE FOR ANY LOSS OF PROFITS OR REVENUES, OR FOR ANY INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES OF ANY KIND, HOWSOEVER CAUSED OR ARISING UNDER THIS AGREEMENT. The foregoing provision limiting the liability of the Parties' directors, officers, officials, and employees shall be deemed to be trust provisions for the benefit of such directors, officers, officials, and employees and shall be enforceable by such persons as trust beneficiaries. Such provisions shall not be construed as imposing any liability on such directors, officers, officials, and employees where it does not otherwise exist in law.

12. Rules of Construction. In construing this Agreement and the SOWs, the following principles shall be followed: (a) no meaning may be inferred from any presumption that one Party had a greater or lesser hand in drafting this Agreement; (b) examples do not limit, expressly or by implication, the matter they illustrate; (c) the plural shall be deemed to include the singular and vice versa, as applicable; and (d) the headings are for convenience only and do not affect the meaning or construction of any such provision. The Parties specifically acknowledge and agree: (a) that they have a duty to read all of the documents constituting this Agreement, including its SOWs, and that they are charged with notice and knowledge of the terms in this Agreement, including its SOWs; and (b) that it has in fact read this Agreement, including its SOWs, and is fully informed and has full notice and knowledge of the terms, conditions and effects of this Agreement, including its SOWs. **Each Party further agrees that it will not contest the validity or enforceability of any provision of this Agreement on the basis that it had no notice or knowledge of such provision or that such provision is not conspicuous.**

13. Miscellaneous.

a. Notices. All notices hereunder shall be in writing and shall be sent by certified mail, return receipt requested, or by overnight courier service, to the address set forth below each Party's signature, or to such other addresses as may be stipulated in writing by the Parties pursuant hereto. Unless otherwise provided, notice shall be effective on the date it is officially recorded as delivered by return receipt or equivalent.

b. Entire Agreement; Amendment. This Agreement and each properly executed SOW supersedes all prior agreements, arrangements, and undertakings between the Parties and constitutes the entire agreement between the Parties relating to the subject matter thereof. This Agreement may not be amended except by written instrument executed by both Parties. In the event of a conflict between the terms of any given SOW and this Agreement, the terms of the SOW shall prevail. The invalidity or unenforceability of any provision of this Agreement shall in no way affect the validity or enforceability of any other provision of this Agreement.

c. Assignment. Neither Party may assign this Agreement without the prior written consent of the other Party; such consent will not be unreasonably withheld. Any attempt to assign this Agreement without the prior written consent of the other Party shall be null and void. A change in control of a Party shall not be deemed an assignment of this Agreement.

d. Force Majeure. If either party is prevented from performing any of its duties or obligations hereunder (other than duties or obligations with respect to payment) in a timely manner by reason or act of God, strike, labor, dispute, flood, public disaster, equipment or technical malfunctions or failures, power failures or interruptions or any other reason beyond its reasonable control, such condition shall be deemed to be a valid excuse for delay of performance or for nonperformance of any such duty or obligation for the period during which such conditions exist.

e. Survival of Certain Provisions. Notwithstanding the termination or expiration of this Agreement, the provisions of Sections 6, 10, and 11 shall survive and continue and bind the parties and their legal representatives, successors and permitted assigns.

f. No Waiver. The waiver of any breach or failure of a term or condition of this Agreement by any party shall not be construed as a waiver of any subsequent breach or failure of the same term or condition, or a waiver of any other breach or failure of a term or condition of this Agreement.

g. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same Agreement. The Parties may utilize electronic means (including facsimile and e-mail) to execute and transmit the Agreement and all such electronically executed and/or transmitted copies of the Agreement shall be deemed as valid as originals.

SIGNATURE PAGE TO FOLLOW.

WHEREFORE, for the purpose of being bound, the Parties execute this Agreement by their duly authorized representatives as of the date(s) set forth below.

OWNER

VILLAGE OF LOMBARD

By: 

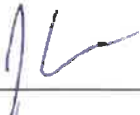
Name: Keith Giagnorio

Title: Village President

Date: September 5, 2019

COMPANY

UTILITY SERVICE CO., INC.

By: 

Name: Jonathan Cato

Title: Senior VP, Advanced Solutions LOB

Date: August 1, 2019

Notice Address for Each Party:

Village of Lombard

Attn: Brian Jack

255 E. Wilson

Lombard, IL 60148

Utility Service Co., Inc.

Attn: Customer Service Department

535 General Courtney Hodges Blvd

P O Box 1350

Perry, Georgia 31069