

VILLAGE OF LOMBARD CONTRACT

CONTRACT DOCUMENT NUMBER M-07-04

This agreement is made this 8th day of November, 2006, between and shall be binding upon the Village of Lombard, an Illinois municipal Corporation hereinafter referred to as the "Village" and Peerless Fence, Inc. hereinafter referred to as the "Contractor" and its successors.

Witnessed, that in consideration of the mutual promises of the parties delineated in the contract documents, the Contractor agrees to perform the services and the Village agrees to pay for the following services as set forth in the contract documents:

The proposed work is officially known as "RAILROAD SAFETY BUFFER FENCE PROJECT". The Railroad Safety Buffer Fence Project consists of the installation of approximately 1,500 feet of Montage Plus, Genesis Style fence. The fence will be in 6-foot high, 8-foot wide panels with 3-rails and will have 2-1/2" posts and 3/4" pickets that will have flat tops. The fence will be installed in a continuous line along the south side of the Union Pacific right-of-way from the private property fence at 132 Western Avenue to the Village limits on Westmore Avenue. The project also includes two (2) 12-foot wide double-drive gates. There ~~are two~~ ^{IS ONE (1)} bid additives. ~~Bid Additive One adds four (4) single walk gates and an additional 100 feet of fence to allow for perpendicular cut-offs from the proposed fence to existing private property fences.~~ Bid Additive One adds four (4) single walk gates and an additional ~~100 feet of fence to allow for perpendicular cut-offs from the proposed fence to existing private property fences.~~ Bid Additive Two adds one (1) 12-foot wide double-swing gate and an additional 250 feet of fence for the area along the north side of the Union Pacific right-of-way, from the private property fence on 705 Prairie Avenue to the Village limits on Westwood Avenue. All spoils will be removed from the site. A contract bond and Railroad Protective Liability Insurance are required.

1. This contract shall embrace and include all of the applicable contract documents listed below as if attached hereto or repeated herein:
 - a. Contract Document Number M-07-04 for RAILROAD SAFETY BUFFER FENCE PROJECT, consisting of the following:
 - i) Cover Sheet
 - ii) Table of Contents
 - iii) Request for Proposals on Contract Document Number M-07-04 - Legal Notice
 - iv) General Provisions
 - v) Special Provisions
 - vi) Map Sheets
 - b. The Contractor's Proposal Dated: October 25, 2006
 - c. Required Performance and Payment Bonds and Certificate(s) of Insurance
 - d. Executed Certification Form.
2. The Village agrees to pay, and the Contractor agrees to accept as full payment as shown on the Contractor's Proposal made a part hereof, subject to additions and deletions as agreed to by the parties hereto.
3. The Contractor shall commence work under this Contract upon written Notice to Proceed from the

Village and shall complete work on this project within twenty-one (21) calender days from the date of the Notice to Proceed. Time is of the essence of this Contract and Contractor agrees to achieve completion within the contract time by all proper and appropriate means including working overtime without additional compensation.

- 4. Pursuant to the provisions of Section 5 of the Mechanics' Lien Act of Illinois, prior to making any payment on this contract the Village demands that the Contractor furnish a written statement of the names of all parties furnishing labor and/or materials under this Contract and the amounts due or to become due on each. This statement must be made under oath or be verified by affidavit. The Village shall not issue final payment nor shall any retained percentage become due until releases and waivers of lien have been supplied as the Village designates.
- 5. This Contract represents the entire Agreement between the parties and may not be modified without the written approval of both parties.

IN WITNESS WHEREOF, the Village of Lombard, Illinois by William J. Mueller, Village President, and the Contractor have hereunto set their hands this 8th day of November 2006.

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

PEERLESS FENCE

Print Company Name

Individual or Partnership _____ Corporation X

Accepted this 8th day of Nov, 2006.

By Dean White

DEAN R. WHITE, VICE PRESIDENT
Position/Title

By Jean Jacobs

JEAN JACOBS, SECRETARY
Position/Title

THE VILLAGE OF LOMBARD, ILLINOIS

Accepted this 2nd day of November, 2006.

William J. Mueller
William J. Mueller, Village President

Attest:

Brigitte O'Brien
Brigitte O'Brien, Village Clerk

VILLAGE OF LOMBARD

CONTRACT BOND

KNOW ALL MEN BY THESE PRESENTS, that we Peerless Enterprises, Inc., a company organized under the laws of the State of Illinois and licensed to do business in the State of Illinois as Principal and Ohio Casualty Insurance, a corporation organized and existing under the laws of the State of Ohio, with authority to do business in the State of Illinois, as Surety, are now held and firmly bound unto the Village of Lombard, State of Illinois in the penal sum of Seventy three thousand three hundred seventy & 00/100----- dollars (\$ 73,370.00) lawful money of the United States, well and truly to be paid unto said Village for the payment of which we bind ourselves, our successors and assigns, jointly, severally, and firmly by these presents.

THE CONDITION OF THE FOREGOING OBLIGATION IS SUCH that whereas the said Principal has entered into a written contract with the Village of Lombard, acting through the President and Board of Trustees of said Village, dated November 8th, 2006, for the construction of the work designated:

RAILROAD SAFETY BUFFER FENCE PROJECT

in Lombard, Illinois which contract is hereby referred to and made a part hereof as if written herein at length, and whereby the said Principal has promised and agreed to perform said work in accordance with the terms of said contract, and has promised to pay all sums of money due for any labor, materials, apparatus, fixtures or machinery furnished to such Principal for the purpose of performing such work, and has further agreed to guaranty and maintain said work for a one (1) year period following final payment to such Principal, and has further agreed to pay all direct and indirect damages to any person, firm, company, or corporation suffered or sustained on account of the performance of such work during the time thereof and until such work is completed and accepted; and has further agreed that this bond shall inure to the benefit of any person, firm, company or corporation from whom any such labor, materials, apparatus, fixtures or machinery was so furnished and that suit may be maintained on such bond by any such person, firm, company or corporation for the recovery of any such money.

NOW, THEREFORE, if the said Principal shall well and truly perform said work in accordance with the terms of said contract and shall pay all sums of money due or to become due for any labor, materials, apparatus, fixtures or machinery furnished to him for the purpose of constructing such work and shall commence and complete the work within the time prescribed in said contract, and shall pay and discharge all damages, direct and indirect, that may be suffered or sustained on account of such work during the time of the performance thereof and until the said work shall have been accepted, and shall hold the Village of Lombard and its officers, agents and employees, harmless on account of any such damages, and shall in all respects fully and faithfully comply with all the provisions, conditions, and requirements of said contract, then upon the final payment by the Village to said Principal under said contract, the amount of this bond shall be reduced to ten percent (10%) of the amount set forth on the first page hereof for a period of one (1) year; otherwise to remain in full force and effect.

NOW, THEREFORE, if the said Principal shall well and truly perform said guaranty and maintenance work in accordance with the terms of said contract for said one (1) year period after final payment and shall pay all sums of money due or to become due for any labor, materials, apparatus, fixtures or machinery furnished to him for the purpose of performing such guaranty and maintenance work and shall commence and complete the guaranty and maintenance work within the time prescribed in said contract, and shall pay and discharge all damages, direct and indirect, that may be suffered or sustained on account of such guaranty and maintenance work during the time of the performance thereof and until the said guaranty and maintenance work shall have been accepted, and shall hold the Village of Lombard and its officers, agents and employees, harmless on account of any such damages, and shall in all respects fully and faithfully comply with all the provisions, conditions, and requirements of said contract, then this obligation to be void; otherwise to remain in full force and effect.

APPROVED this 2nd day of
November, 2006.

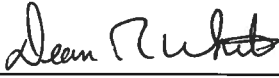
IN WITNESS WHEREOF, We have duly
executed the foregoing Obligation this
8th day of November, 2006.

VILLAGE OF LOMBARD

PRINCIPAL:

PEERLESS FENCE

BY: 
Village President

BY: 


ATTEST:

Village Clerk

ATTEST:


SURETY: Ohio Casualty Insurance Company

BY: Bonnie Allison
(Title)

BY: 
Attorney in Fact

BY: _____



APPENDIX 2

VILLAGE OF LOMBARD

CONTRACTOR'S CERTIFICATION

DEAN R. WHITE, having been first duly sworn depose and states as follows:
(Officer or Owner of Company)

PEERLESS FENCE, having submitted a proposal for:
(Name of Company)

RAILROAD SAFETY BUFFER FENCE PROJECT to the Village of Lombard, 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.

By: Jean R White
Authorized Agent of Contractor

Subscribed and sworn to before me this 8th day of Nov, 2006.

OFFICIAL SEAL
JEANENNE JACOBS
NOTARY PUBLIC, STATE OF ILLINOIS
My Commission Expires 8-11-08

[Signature]
Notary Public

CERTIFIED COPY OF POWER OF ATTORNEY
THE OHIO CASUALTY INSURANCE COMPANY
WEST AMERICAN INSURANCE COMPANY

No. 38-780

Know All Men by These Presents: That THE OHIO CASUALTY INSURANCE COMPANY, an Ohio Corporation, and WEST AMERICAN INSURANCE COMPANY, an Indiana Corporation, pursuant to the authority granted by Article III, Section 9 of the Code of Regulations and By-Laws of The Ohio Casualty Insurance Company and West American Insurance Company, do hereby nominate, constitute and appoint: Gordon Hard, Bonnie Allison or Vicki Van Thournout of Geneva, Illinois its true and lawful agent (s) and attorney (s)-in-fact, to make, execute, seal and deliver for and on its behalf as surety, and as its act and deed any and all BONDS, UNDERTAKINGS, and RECOGNIZANCES, not exceeding in any single instance ONE MILLION (\$1,000,000.00) DOLLARS, excluding, however, any bond(s) or undertaking(s) guaranteeing the payment of notes and interest thereon

And the execution of such bonds or undertakings in pursuance of these presents, shall be as binding upon said Companies, as fully and amply, to all intents and purposes, as if they had been duly executed and acknowledged by the regularly elected officers of the Companies at their administrative offices in Fairfield, Ohio, in their own proper persons.

The authority granted hereunder supersedes any previous authority heretofore granted the above named attorney(s)-in-fact.

In WITNESS WHEREOF, the undersigned officer of the said The Ohio Casualty Insurance Company and West American Insurance Company has hereunto subscribed his name and affixed the Corporate Seal of each Company this 7th day of July 2005.



Sam Lawrence

Sam Lawrence, Assistant Secretary

STATE OF OHIO,
COUNTY OF BUTLER

On this 7th day of July, 2005 before the subscriber, a Notary Public of the State of Ohio, in and for the County of Butler, duly commissioned and qualified, came Sam Lawrence, Assistant Secretary of THE OHIO CASUALTY INSURANCE COMPANY and WEST AMERICAN INSURANCE COMPANY, to me personally known to be the individual and officer described in, and who executed the preceding instrument, and he acknowledged the execution of the same, and being by me duly sworn deposes and says that he is the officer of the Companies aforesaid, and that the seals affixed to the preceding instrument are the Corporate Seals of said Companies, and the said Corporate Seals and his signature as officer were duly affixed and subscribed to the said instrument by the authority and direction of the said Corporations.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my Official Seal at the City of Hamilton, State of Ohio, the day and year first above written.



Cheryl S. Gregory

Notary Public in and for County of Butler, State of Ohio
My Commission expires August 6, 2007.

This power of attorney is granted under and by authority of Article III, Section 9 of the Code of Regulations and By-Laws of The Ohio Casualty Insurance Company and West American Insurance Company, extracts from which read:

Article III, Section 9. Appointment of Attorneys-in-Fact. The Chairman of the Board, the President, any Vice-President, the Secretary or any Assistant Secretary of the corporation shall be and is hereby vested with full power and authority to appoint attorneys-in-fact for the purpose of signing the name of the corporation as surety to, and to execute, attach the seal of the corporation to, acknowledge and deliver any and all bonds, recognizances, stipulations, undertakings or other instruments of suretyship and policies of insurance to be given in favor of any individual, firm, corporation, partnership, limited liability company or other entity, or the official representative thereof, or to any county or state, or any official board or boards of any county or state, or the United States of America or any agency thereof, or to any other political subdivision thereof

This instrument is signed and sealed as authorized by the following resolution adopted by the Boards of Directors of the Companies on October 21, 2004:

RESOLVED, That the signature of any officer of the Company authorized under Article III, Section 9 of its Code of Regulations and By-laws and the Company seal may be affixed by facsimile to any power of attorney or copy thereof issued on behalf of the Company to make, execute, seal and deliver for and on its behalf as surety any and all bonds, undertakings or other written obligations in the nature thereof; to prescribe their respective duties and the respective limits of their authority; and to revoke any such appointment. Such signatures and seal are hereby adopted by the Company as original signatures and seal and shall, with respect to any bond, undertaking or other written obligations in the nature thereof to which it is attached, be valid and binding upon the Company with the same force and effect as though manually affixed.

CERTIFICATE

I, the undersigned Assistant Secretary of The Ohio Casualty Insurance Company and West American Insurance Company, do hereby certify that the foregoing power of attorney, the referenced By-Laws of the Companies and the above resolution of their Boards of Directors are true and correct copies and are in full force and effect on this date.

IN WITNESS WHEREOF, I have hereunto set my hand and the seals of the Companies this _____ day of _____



Mark E. Schmidt

Assistant Secretary