

AIA® Document A101™ – 2007

Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum

AGREEMENT made as of the Ninth day of December in the year Two Thousand Fifteen
(*In words, indicate day, month and year.*)

BETWEEN the Owner:
(*Name, legal status, address and other information*)

Wheaton Park District
102 E. Wesley
Wheaton, IL 60187

and the Contractor:
(*Name, legal status, address and other information*)

Voris Mechanical, Inc.
370 Windy Point Drive
Glendale Heights, IL 60139

for the following Project:
(*Name, location and detailed description*)

Central Athletic Center New Chiller System
500 S. Naperville Road
Wheaton, IL 60187

The Project includes the installation of a new chiller system to serve the Owner's Central Athletic Center and to produce ice for two outdoor ice rinks during the winter, and all other and incidental and collateral work necessary to properly complete the Project as indicated in the Contract Documents.

The Architect
(*Name, legal status, address and other information*)

Elara Energy Services, Inc.
30 North Wolf Road
2nd Floor
Hillside, IL 60162-1605

For purposes of this Agreement, "Architect" shall mean "Engineer." Engineer to provide mechanical and electrical engineering services

The Owner and Contractor agree as follows.

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

AIA Document A201™–2007, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

Init.

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ARTICLE 1 THE CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement and Modifications issued after execution of this Agreement, all of which form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. An enumeration of the Contract Documents, other than a Modification, appears in Article 9.

ARTICLE 2 THE WORK OF THIS CONTRACT

The Contractor shall fully execute the Work indicated in the Contract Documents, except as specifically stated in the Contract Documents to be the responsibility of others.

ARTICLE 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ 3.1 The date of commencement of the Work shall be the date of this Agreement unless a different date is stated below or provision is made for the date to be fixed in a notice to proceed issued by the Owner.

(Insert the date of commencement if it differs from the date of this Agreement or, if applicable, state that the date will be fixed in a notice to proceed.)

The date of commencement of the Work shall be fixed by a Notice to Proceed (hereinafter referred to as the "Commencement Date"). Prior to commencing the Work, the Contractor shall have obtained and provided to the Owner acceptable evidence of all licenses, permits, bonds and insurance indicated as being the Contractor's responsibility under the Contract Documents. Delay in the commencement of the Work attributable to the failure of the Contractor to have obtained and provided such evidence to the Owner shall not result in an extension of the date scheduled for Substantial Completion as provided in Section 3.3 below, or in any milestone date previously agreed to by the Parties in any Project Schedule.

If, prior to the commencement of the Work, the Owner requires time to file mortgages and other security interests, the Owner's time requirement shall be as follows:

Not applicable to this Contract.

§ 3.2 The Contract Time shall be measured from the Commencement Date.

§ 3.3 The Contractor shall achieve Substantial Completion of the entire Work not later than

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User Notes:

(1934705274)

(Paragraphs deleted)

April 8, 2016 and shall achieve Final Completion of the entire Work not later than April 22, 2015, subject to adjustments of this Contract Time authorized by Change Order as provided in the Contract Documents (hereinafter referred to as the "Substantial Completion Date"). The Owner and Contractor agree that the amount of time given to the Contractor under the Contract to achieve Substantial Completion is a reasonable amount of time considering the requirements of the Contract Documents.

(Insert provisions, if any, for liquidated damages relating to failure to achieve Substantial Completion on time or for bonus payments for early completion of the Work.)

Time is of the essence of the contract. Should the Contractor fail to complete the Work on or before the Final Completion date stipulated in the Contract or within such extended time as may have been allowed, the Contractor shall be liable and shall pay to the Owner the sum of \$100 per calendar day, not as a penalty but as liquidated damages, for each day of overrun in the Contract Time or such extended time as may have been allowed. The liquidated damages for failure to complete the Contract on time are approximate, due to the impracticality of calculating and proving actual delay costs. The costs of delay represented by the liquidated damage amount are understood to be a fair and reasonable estimate of the costs that will be borne by the Owner during extended and delayed performance by the Contractor for the Work. The liquidated damage amount specified will accrue and be assessed until Final Completion of the total physical Work of the Contract even though the Work may be substantially complete. The Owner will deduct these liquidated damages from any monies due or to become due to the Contractor from the Owner.

ARTICLE 4 CONTRACT SUM

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract. The Contract Sum shall be Five Hundred Three Thousand Eight Hundred and Six and 00/100 Dollars (\$503,806.00), subject to additions and deductions as provided in the Contract Documents.

§ 4.2 The Contract Sum is based upon and includes the following alternates, if any, which are described in the Contract Documents and are hereby accepted by the Owner:

(State the numbers or other identification of accepted alternates. If the bidding or proposal documents permit the Owner to accept other alternates subsequent to the execution of this Agreement, attach a schedule of such other alternates showing the amount for each and the date when that amount expires.)

Alternate No. 2, Wood fence in lieu of CMU Block Chiller Enclosure; Deduct of \$37,000.00

Alternate No. 5, 2 Through 5 Year Compressor Warranty; Add \$2,500.00.

§ 4.3 Unit prices are pursuant to Contractor's Proposal, as modified by this Agreement, attached to and incorporated into this Agreement by reference.

(Identify and state the unit price; state quantity limitations, if any, to which the unit price will be applicable.)

Item	Units and Limitations	Price Per Unit (\$0.00)
NA		

§ 4.4 Allowances included in the Contract Sum, if any:

(Identify allowance and state exclusions, if any, from the allowance price.)

Item	Price
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§ 4.5 Adjustments to the Contract Sum for changes in the Work (other than for changes in the Work involving items for which unit prices were provided as set forth in Section 4.3, above) shall be made in accordance with Article 7 of the General Conditions of the Contract, provided that in the case of an increase in the Contract Sum attributable to a change in the Work, "reasonable overhead and profit" for purposes of Section 7.3.7 thereof shall mean: 1. Five percent (5%) of the cost of the change in the Work involved if performed by the Contractor not involving Subcontractors, or 2. Five percent (5%) of the cost of the change in the Work involved performed by Subcontractors, plus two percent of the cost of the change in the Work for the Contractor's supervision of the work performed by the Subcontractors.

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When both additions and credits covering related Work are involved in a change, the allowance for overhead and profit shall be figured on the basis of net increase, if any, with respect to that change. No overhead and profit shall be paid to the Contractor for an increase in the cost of the surety bond or insurance premiums resulting from a change in the Work. In the event of an increase in the Contract Sum resulting from an additive change order, the actual amount of any increase in the cost of Contractor's surety bond shall be added to the amount of the change order. Similarly in the event of a decrease in the Contract Sum resulting from a deductive change order, the amount of any decrease in the cost of Contractor's surety bond shall be added to the amount shown in the deductive change order, by which the Contract Sum is to be reduced.

§ 4.6 Overtime, if and when specifically authorized in writing in advance by the Owner shall be paid by the Owner on the basis of premium payment if any, plus the cost of insurance and taxes based on the premium payment period. No overhead or profit may be charged for overtime. The Contractor shall not be entitled to any payment for overtime necessitated by the failure of the Contractor to perform the Work in accordance with the Contract Documents including without limitation to the Contractor's failure to prosecute the Work diligently and on an uninterrupted basis and with a sufficient workforce so as to achieve completion of the Work within the time and in the manner contemplated by the Contract Documents, or otherwise due to the fault of the Contractor. In such instances if the Owner requires the Contractor to perform Work on an overtime basis, all costs for and associated with such overtime shall be borne by the Contractor.

ARTICLE 5 PAYMENTS

§ 5.1 PROGRESS PAYMENTS

§ 5.1.1 Based upon Applications for Payment properly completed and accompanied by all supporting documentation and other submittals required by the Contract Documents submitted to the Architect by the Contractor and Certificates for Payment issued by the Architect, and agreed to by Owner and not subsequently nullified by the Architect in accordance with the Contract Documents, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided below and elsewhere in the Contract Documents.

§ 5.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, or as follows:

§ 5.1.3 Provided that an Application for Payment, which is in proper form and accompanied by required supporting documents and submittals, is received by the Architect not later than the 10th day of a month, certified for payment by the Owner and not subsequently nullified by the Owner in accordance with the Contract Documents, the Owner shall make payment of the certified amount to the Contractor not later than the 15th day of the following month. If an Application for Payment is received by the Architect after the application date fixed above, payment shall be made by the Owner not later than forty-five (45) days after the Architect receives the Application for Payment in proper form and accompanied by required supporting documents and submittals and certifies payment to the Owner. Contractor is solely responsible for any delays in payment due in whole or in part to Contractor's failure to submit its payment application timely, in proper form and accompanied by all supporting documents and submittals required under the Contract.

§ 5.1.4 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor in accordance with the Contract Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work. The schedule of values shall be prepared in such form and supported by such data to substantiate its accuracy as the Architect may require. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment.

§ 5.1.5 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.

§ 5.1.6 Subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

1. Take that portion of the Contract Sum properly allocable to completed Work as determined by multiplying the percentage completion of each portion of the Work by the share of the Contract Sum

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allocated to that portion of the Work in the schedule of values, less retainage of ten percent (10%). Pending final determination of cost to the Owner of changes in the Work, amounts not in dispute shall be included as provided in Section 7.3.9 of AIA Document A201™–2007, General Conditions of the Contract for Construction;

2. Add that portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction (or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing), less retainage of ten percent (10%);
3. Subtract the aggregate of previous payments made by the Owner; and
4. Subtract amounts, if any, for which the Architect has withheld or nullified a Certificate for Payment as provided in Section 9.5 of AIA Document A201–2007.

§ 5.1.7 The progress payment amount determined in accordance with Section 5.1.6

(Paragraphs deleted)

may be further modified and the retainage may be reduced if and as provided in Paragraph 9.3 of the General Conditions.

§ 5.1.8 Reduction or limitation of retainage, if any, shall be as follows:

(If it is intended, prior to Substantial Completion of the entire Work, to reduce or limit the retainage resulting from the percentages inserted in Sections 5.1.6.1 and 5.1.6.2 above, and this is not explained elsewhere in the Contract Documents, insert here provisions for such reduction or limitation.)

§ 5.1.9 Except with the Owner's prior approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

§ 5.2 FINAL PAYMENT

§ 5.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when:

1. the Contractor has fully performed the Contract in accordance with the Contract Documents; provided that Owner shall have no obligation to make final payment if the Contractor is required to correct Work as provided in Section 12.2.2 of AIA Document A201–2007 or as otherwise specified by the Contract Documents, or to satisfy other requirements, if any, which extend beyond final payment; and
2. a final Certificate for Payment has been issued by the Architect and the Owner has approved payment.

§ 5.2.2 The Owner's final payment to the Contractor shall be made no later than 45 days after the conditions set forth in Section 5.2.1, above, have been met.

§ 5.3 WAIVER PROCEDURE/FORMAT

Contractor's progress payment applications shall be accompanied by the Contractor's and Subcontractor's Partial Waiver of Lien to date for the full amount of the payment. The Final Waiver of the Contractor shall be for the full amount of the Contract and the Final Waiver of a Subcontractor shall be for the full amount of its Subcontract. All applications for payment shall be accompanied by affidavits from the Contractor, in triplicate, containing such information and in such form to comply with the Illinois Mechanics Lien Act (770 ILCS 60/001 et seq.) and showing in detail the sources of all labor and materials used and contracted to be used on the Project, including names and addresses of subcontractors and materials suppliers; amounts paid and remaining to be paid to each; together with all other documents as shall be necessary, in the sole judgment of the Owner, to waive all claims of liens to date and comply with all applicable state and local laws.

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- (i) All waivers (partial and final) shall include language as applicable indicating either that:
 - 1. All materials were taken from fully paid stock and delivered to job site in our own vehicles and all labor has been fully paid in accordance with prevailing wage laws; or
 - 2. Materials were provided by the following suppliers from whom waivers of lien are attached and all labor has been fully paid in accordance with prevailing wage laws.

ARTICLE 6 DISPUTE RESOLUTION

§ 6.1

(Paragraphs deleted)

The Parties shall make claims and resolve disputes as provided in Article 15 of the General Conditions and elsewhere in the Contract Documents.

(Paragraphs deleted)

ARTICLE 7 TERMINATION OR SUSPENSION

§ 7.1 The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A201-2007.

§ 7.2 The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201-2007.

ARTICLE 8 MISCELLANEOUS PROVISIONS

§ 8.1 Where reference is made in this Agreement to a provision of AIA Document A201-2007 or another Contract Document, the reference refers to that provision as amended, superseded or supplemented by other provisions of the Contract Documents.

§ 8.2 Payments due and unpaid under the Contract shall bear interest from the date payment is due

(Paragraphs deleted)

and at the rate provided under the Illinois Local Government Prompt Payment Act.

§ 8.3 The Owner's representative:

(Name, address and other information)

Rob Sperl
Wheaton Park District
102 E. Wesley
Wheaton, IL 60187
T: 630-510-4970
Email: rsperl@wheatonparks.org

§ 8.4 The Contractor's representative:

(Name, address and other information)

Gerald T. Voris
Voris Mechanical, Inc.
370 Windy Point Drive
Glendale Heights, IL 60139
T: 630-469-7800
Email: gtvoris@vorismechanical.com

§ 8.5 Neither the Owner's nor the Contractor's representative shall be changed without ten days written notice to the other party.

§ 8.6 Other Provisions:

§ 8.6.1 Not less than the prevailing rate of wages as determined by the Illinois Department of Labor shall be paid to all laborers, workers and mechanics performing the Work. Contractor's bonds shall include a provision as will guarantee

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the faithful performance of this prevailing wage clause as herein provided and as provided in the General Conditions. Contractor shall comply with all other requirements of the Prevailing Wage Act.

§ 8.6.2 The Contractor shall be responsible for the supply and maintenance of any and all temporary equipment, utilities and facilities necessary to properly and safely complete and protect the Work, including without limitation those required by winter conditions. The Contractor shall provide and erect barricades and other safeguards adequate to warn of danger at the site and to protect persons and property from injury resulting from the Work.

§ 8.6.3 The Contractor shall limit materials and equipment storage to the immediate area of Work and such other areas as the Owner may designate. The Contractor shall promptly remove and properly dispose all construction material, trash, garbage and other debris off site.

§ 8.6.4 Except as otherwise specifically provided in the Contract Documents, if and to the extent of any inconsistency, ambiguity, conflict, discrepancy or error in the Contract Document, and otherwise in interpreting the Contract Documents, the Parties shall give precedence to the Contract Documents in the following order of priority:

- (i) Modifications.
- (ii) This Agreement, including all exhibits, certifications and attachments incorporated in this Agreement.
- (iii) Supplementary Conditions.
- (iv) General Conditions.
- (v) Construction Drawings.

§ 8.6.5 The rights and remedies of the Owner stated in the Contract Documents shall be in addition to and not in limitation of any other rights of the Owner granted at law or in equity.

ARTICLE 9 ENUMERATION OF CONTRACT DOCUMENTS

§ 9.1 The Contract Documents, except for Modifications issued after execution of this Agreement, are enumerated in the sections below.

§ 9.1.1 The Agreement is this executed AIA Document A101–2007, Standard Form of Agreement Between Owner and Contractor, as modified by Owner.

§ 9.1.2 The General Conditions are AIA Document A201–2007, General Conditions of the Contract for Construction, as modified by Owner.

§ 9.1.3 The Supplementary and other Conditions of the
(Paragraphs deleted)
Contract are those included in the Project Manual dated November 13, 2015.

§ 9.1.4 The Specifications:
(Either list the Specifications here or refer to an exhibit attached to this Agreement.)
The Specifications are those included in the Project Manual dated November 13, 2015.

(Table deleted)
§ 9.1.5 The Drawings:
(Either list the Drawings here or refer to an exhibit attached to this Agreement.)
The Drawings are those included in the Project Manual dated November 13, 2015.

Number	Title	Date
--------	-------	------

(Row deleted)

§ 9.1.6 The Addenda, if any:

Number	Date	Pages
No. 1	November 24, 2015	2 plus 2 page attachment

Portions of Addenda relating to bidding requirements are not part of the Contract Documents unless the bidding requirements are also enumerated in this Article 9.

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§ 9.1.7 Additional documents, if any, forming part of the Contract Documents:

1. All other documents contained in the Project Manual dated November 13, 2015.
2. Certificate of Insurance and endorsements attached to and incorporated in this Agreement by this reference.
3. Performance Bond, Labor and Material Payment Bond, attached to and incorporated in this Agreement by this reference.
4. Prevailing Wage Determination and supersedes notice attached to and incorporated in this Agreement by this reference.
5. Contractor's Proposal, as modified by the Contract Documents, attached to and incorporated in this Agreement by this reference.
6. Contractor's Compliance and Certifications Attachment and Substance Abuse Prevention Program Certification, attached to and incorporated in this Agreement by this reference.

ARTICLE 10 INSURANCE AND BONDS

The Contractor shall purchase and maintain insurance and provide bonds as set forth in Article 11 of AIA Document A201-2007.

(Table deleted)

This Agreement entered into as of the day and year first written above.

WHEATON PARK DISTRICT

OWNER (Signature)

Michael J. Berard
(Printed name and title)

Exec Dir

VORIS MECHANICAL, INC.

Kimberley A. Voris
CONTRACTOR (Signature)

KIMBERLEY A. VORIS - PRESIDENT
(Printed name and title)

RECEIVED
VORIS MECHANICAL, INC.

DEC 21 2015

P.O. BOX 5488
370 WINDY POINT DRIVE
GLENDALE HEIGHTS, IL 60139

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Additions and Deletions Report for AIA® Document A101™ – 2007

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 14:13:53 on 12/14/2015.

PAGE 1

AGREEMENT made as of the Ninth day of December in the year Two Thousand Fifteen

...

Wheaton Park District
102 E. Wesley
Wheaton, IL 60187

...

Voris Mechanical, Inc.
370 Windy Point Drive
Glendale Heights, IL 60139

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Central Athletic Center New Chiller System
500 S. Naperville Road
Wheaton, IL 60187

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The ~~Architect~~ Project includes the installation of a new chiller system to serve the Owner's Central Athletic Center and to produce ice for two outdoor ice rinks during the winter, and all other and incidental and collateral work necessary to properly complete the Project as indicated in the Contract Documents.

The Architect

...

Elara Energy Services, Inc.
30 North Wolf Road
2nd Floor
Hillside, IL 60162-1605

For purposes of this Agreement, "Architect" shall mean "Engineer." Engineer to provide mechanical and electrical engineering services

PAGE 2

The Contractor shall fully execute the Work ~~described~~ indicated in the Contract Documents, except as specifically ~~indicated~~ stated in the Contract Documents to be the responsibility of others.

...

The date of commencement of the Work shall be fixed by a Notice to Proceed (hereinafter referred to as the "Commencement Date"). Prior to commencing the Work, the Contractor shall have obtained and provided to the Owner acceptable evidence of all licenses, permits, bonds and insurance indicated as being the Contractor's responsibility under the Contract Documents. Delay in the commencement of the Work attributable to the failure of the Contractor to have obtained and provided such evidence to the Owner shall not result in an extension of the date scheduled for Substantial Completion as provided in Section 3.3 below, or in any milestone date previously agreed to by the Parties in any Project Schedule.

...

Not applicable to this Contract.

§ 3.2 The Contract Time shall be measured from the ~~date of commencement~~ Commencement Date.

§ 3.3 The Contractor shall achieve Substantial Completion of the entire Work not later than ~~(—) days from the date of commencement, or as follows:~~

(Insert number of calendar days. Alternatively, a calendar date may be used when coordinated with the date of commencement. If appropriate, insert requirements for earlier Substantial Completion of certain portions of the Work.)

Portion of Work

Substantial Completion Date

~~—April 8, 2016 and shall achieve Final Completion of the entire Work not later than April 22, 2015, subject to adjustments of this Contract Time authorized by Change Order as provided in the Contract Documents (hereinafter referred to as the "Substantial Completion Date"). The Owner and Contractor agree that the amount of time given to the Contractor under the Contract to achieve Substantial Completion is a reasonable amount of time considering the requirements of the Contract Documents.~~

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Time is of the essence of the contract. Should the Contractor fail to complete the Work on or before the Final Completion date stipulated in the Contract or within such extended time as may have been allowed, the Contractor shall be liable and shall pay to the Owner the sum of \$100 per calendar day, not as a penalty but as liquidated damages, for each day of overrun in the Contract Time or such extended time as may have been allowed. The liquidated damages for failure to complete the Contract on time are approximate, due to the impracticality of calculating and proving actual delay costs. The costs of delay represented by the liquidated damage amount are understood to be a fair and reasonable estimate of the costs that will be borne by the Owner during extended and delayed performance by the Contractor for the Work. The liquidated damage amount specified will accrue and be assessed until Final Completion of the total physical Work of the Contract even though the Work may be substantially complete. The Owner will deduct these liquidated damages from any monies due or to become due to the Contractor from the Owner.

...

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract. The Contract Sum shall be ~~(\$—), Five Hundred Three Thousand Eight Hundred and Six and 00/100 Dollars (\$503,806.00),~~ subject to additions and deductions as provided in the Contract Documents.

§ 4.2 The Contract Sum is based upon and includes the following alternates, if any, which are described in the Contract Documents and are hereby accepted by the Owner:

...

Alternate No. 2, Wood fence in lieu of CMU Block Chiller Enclosure; Deduct of \$37,000.00

Alternate No. 5, 2 Through 5 Year Compressor Warranty; Add \$2,500.00.

§ 4.3 Unit prices, if any, are pursuant to Contractor's Proposal, as modified by this Agreement, attached to and incorporated into this Agreement by reference.

...

NA

...

§ 4.5 Adjustments to the Contract Sum for changes in the Work (other than for changes in the Work involving items for which unit prices were provided as set forth in Section 4.3, above) shall be made in accordance with Article 7 of the General Conditions of the Contract, provided that in the case of an increase in the Contract Sum attributable to a change in the Work, "reasonable overhead and profit" for purposes of Section 7.3.7 thereof shall mean: 1. Five percent (5%) of the cost of the change in the Work involved if performed by the Contractor not involving Subcontractors, or 2. Five percent (5%) of the cost of the change in the Work involved performed by Subcontractors, plus two percent of the cost of the change in the Work for the Contractor's supervision of the work performed by the Subcontractors.

When both additions and credits covering related Work are involved in a change, the allowance for overhead and profit shall be figured on the basis of net increase, if any, with respect to that change. No overhead and profit shall be paid to the Contractor for an increase in the cost of the surety bond or insurance premiums resulting from a change in the Work. In the event of an increase in the Contract Sum resulting from an additive change order, the actual amount of any increase in the cost of Contractor's surety bond shall be added to the amount of the change order. Similarly in the event of a decrease in the Contract Sum resulting from a deductive change order, the amount of any decrease in the cost of Contractor's surety bond shall be added to the amount shown in the deductive change order, by which the Contract Sum is to be reduced.

§ 4.6 Overtime, if and when specifically authorized in writing in advance by the Owner shall be paid by the Owner on the basis of premium payment if any, plus the cost of insurance and taxes based on the premium payment period. No overhead or profit may be charged for overtime. The Contractor shall not be entitled to any payment for overtime necessitated by the failure of the Contractor to perform the Work in accordance with the Contract Documents including without limitation to the Contractor's failure to prosecute the Work diligently and on an uninterrupted basis and with a sufficient workforce so as to achieve completion of the Work within the time and in the manner contemplated by the Contract Documents, or otherwise due to the fault of the Contractor. In such instances if the Owner requires the Contractor to perform Work on an overtime basis, all costs for and associated with such overtime shall be borne by the Contractor.

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§ 5.1.1 Based upon Applications for Payment properly completed and accompanied by all supporting documentation and other submittals required by the Contract Documents submitted to the Architect by the Contractor and Certificates for Payment issued by the Architect, and agreed to by Owner and not subsequently nullified by the Architect in accordance with the Contract Documents, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided below and elsewhere in the Contract Documents.

...

§ 5.1.3 Provided that an Application for Payment, which is in proper form and accompanied by required supporting documents and submittals, is received by the Architect not later than the 10th day of a month, certified for payment by the Owner and not subsequently nullified by the Owner in accordance with the Contract Documents, the Owner shall make payment of the certified amount to the Contractor not later than the 15th day of the following

month. If an Application for Payment is received by the Architect after the application date fixed above, payment shall be made by the Owner not later than ~~(---) forty-five (45) days~~ after the Architect receives the Application for Payment. ~~(Federal, state or local laws may require payment within a certain period of time.)~~ for Payment in proper form and accompanied by required supporting documents and submittals and certifies payment to the Owner. Contractor is solely responsible for any delays in payment due in whole or in part to Contractor's failure to submit its payment application timely, in proper form and accompanied by all supporting documents and submittals required under the Contract.

...

~~.1~~ —

1. Take that portion of the Contract Sum properly allocable to completed Work as determined by multiplying the percentage completion of each portion of the Work by the share of the Contract Sum allocated to that portion of the Work in the schedule of values, less retainage of percent ~~(---%)~~ ten percent (10%). Pending final determination of cost to the Owner of changes in the Work, amounts not in dispute shall be included as provided in Section 7.3.9 of AIA Document A201™-2007, General Conditions of the Contract for Construction;

~~.2~~ — 2. Add that portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction (or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing), less retainage of percent ~~(---%)~~ ten percent (10%);

~~.3~~ — 3. Subtract the aggregate of previous payments made by the Owner; and

~~.4~~ — 4. Subtract amounts, if any, for which the Architect has withheld or nullified a Certificate for Payment as provided in Section 9.5 of AIA Document A201-2007.

§ 5.1.7 The progress payment amount determined in accordance with Section 5.1.6 shall be further modified under the following circumstances:

~~.1~~ — Add, upon Substantial Completion of the Work, a sum sufficient to increase the total payments to the full amount of the Contract Sum, less such amounts as the Architect shall determine for incomplete Work, retainage applicable to such work and unsettled claims; and ~~(Section 9.8.5 of AIA Document A201-2007 requires release of applicable retainage upon Substantial Completion of Work with consent of surety, if any.)~~

~~.2~~ — Add, if final completion of the Work is thereafter materially delayed through no fault of the Contractor, any additional amounts payable in accordance with Section 9.10.3 of AIA Document A201-2007 may be further modified and the retainage may be reduced if and as provided in Paragraph 9.3 of the General Conditions.

PAGE 5

§ 5.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor ~~when when:~~

~~.1~~ — ~~the Contractor has fully performed the Contract except for the Contractor's responsibility~~ 1. the Contractor has fully performed the Contract in accordance with the Contract Documents; provided that Owner shall have no obligation to make final payment if the Contractor is required to correct Work as provided in Section 12.2.2 of AIA Document A201-2007, and A201-2007 or as otherwise specified by the Contract Documents, or to satisfy other requirements, if any, which extend beyond final payment; and

~~.2~~ —

2. a final Certificate for Payment has been issued by the Architect and the Owner has approved payment.

§ 5.2.2 The Owner's final payment to the Contractor shall be made no later than ~~30 days after the issuance of the Architect's final Certificate for Payment, or as follows:~~ 45 days after the conditions set forth in Section 5.2.1, above, have been met.

...

§ 5.3 WAIVER PROCEDURE/FORMAT

Contractor's progress payment applications shall be accompanied by the Contractor's and Subcontractor's Partial Waiver of Lien to date for the full amount of the payment. The Final Waiver of the Contractor shall be for the full amount of the Contract and the Final Waiver of a Subcontractor shall be for the full amount of its Subcontract. All applications for payment shall be accompanied by affidavits from the Contractor, in triplicate, containing such information and in such form to comply with the Illinois Mechanics Lien Act (770 ILCS 60/001 et seq.) and showing in detail the sources of all labor and materials used and contracted to be used on the Project, including names and addresses of subcontractors and materials suppliers; amounts paid and remaining to be paid to each; together with all other documents as shall be necessary, in the sole judgment of the Owner, to waive all claims of liens to date and comply with all applicable state and local laws.

(i) All waivers (partial and final) shall include language as applicable indicating either that:

1. All materials were taken from fully paid stock and delivered to job site in our own vehicles and all labor has been fully paid in accordance with prevailing wage laws; or
2. Materials were provided by the following suppliers from whom waivers of lien are attached and all labor has been fully paid in accordance with prevailing wage laws.

§ 6.1 INITIAL DECISION MAKER

The Architect will serve as Initial Decision Maker pursuant to Section 15.2 of AIA Document A201-2007, unless the parties appoint below another individual, not a party to this Agreement, to serve as Initial Decision Maker.

(If the parties mutually agree, insert the name, address and other contact information of the Initial Decision Maker, if other than the Architect.)

The Parties shall make claims and resolve disputes as provided in Article 15 of the General Conditions and elsewhere in the Contract Documents.

§ 6.2 BINDING DISPUTE RESOLUTION

For any Claim subject to, but not resolved by, mediation pursuant to Section 15.3 of AIA Document A201-2007, the method of binding dispute resolution shall be as follows:

(Check the appropriate box. If the Owner and Contractor do not select a method of binding dispute resolution below, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, Claims will be resolved by litigation in a court of competent jurisdiction.)

☐ Arbitration pursuant to Section 15.4 of AIA Document A201-2007

☐ Litigation in a court of competent jurisdiction

☐ Other (Specify)

PAGE 6

§ 8.1 Where reference is made in this Agreement to a provision of AIA Document A201-2007 or another Contract Document, the reference refers to that provision as amended-amended, superseded or supplemented by other provisions of the Contract Documents.

§ 8.2 Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.

(Insert rate of interest agreed upon, if any.)

~~—%~~ and at the rate provided under the Illinois Local Government Prompt Payment Act.

...

Rob Sperl
Wheaton Park District
102 E. Wesley
Wheaton, IL 60187
T: 630-510-4970
Email: rsperl@wheatonparks.org

...

Gerald T. Voris
Voris Mechanical, Inc.
370 Windy Point Drive
Glendale Heights, IL 60139
T: 630-469-7800
Email: gtvoris@vorismechanical.com

...

§ 8.6 Other provisions:Provisions:

§ 8.6.1 Not less than the prevailing rate of wages as determined by the Illinois Department of Labor shall be paid to all laborers, workers and mechanics performing the Work. Contractor's bonds shall include a provision as will guarantee the faithful performance of this prevailing wage clause as herein provided and as provided in the General Conditions. Contractor shall comply with all other requirements of the Prevailing Wage Act.

§ 8.6.2 The Contractor shall be responsible for the supply and maintenance of any and all temporary equipment, utilities and facilities necessary to properly and safely complete and protect the Work, including without limitation those required by winter conditions. The Contractor shall provide and erect barricades and other safeguards adequate to warn of danger at the site and to protect persons and property from injury resulting from the Work.

§ 8.6.3 The Contractor shall limit materials and equipment storage to the immediate area of Work and such other areas as the Owner may designate. The Contractor shall promptly remove and properly dispose all construction material, trash, garbage and other debris off site.

§ 8.6.4 Except as otherwise specifically provided in the Contract Documents, if and to the extent of any inconsistency, ambiguity, conflict, discrepancy or error in the Contract Document, and otherwise in interpreting the Contract Documents, the Parties shall give precedence to the Contract Documents in the following order of priority:

- (i) Modifications.
- (ii) This Agreement, including all exhibits, certifications and attachments incorporated in this Agreement.
- (iii) Supplementary Conditions.
- (iv) General Conditions.
- (v) Construction Drawings.

§ 8.6.5 The rights and remedies of the Owner stated in the Contract Documents shall be in addition to and not in limitation of any other rights of the Owner granted at law or in equity.

PAGE 7

§ 9.1.1 The Agreement is this executed AIA Document A101–2007, Standard Form of Agreement Between Owner and Contractor, as modified by Owner.

§ 9.1.2 The General Conditions are AIA Document A201–2007, General Conditions of the Contract for Construction, as modified by Owner.

§ 9.1.3 The Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages
<u>Contract are those included in the Project Manual dated November 13, 2015.</u>			

...

The Specifications are those included in the Project Manual dated November 13, 2015.

Section	Title	Date	Pages
...			
<u>The Drawings are those included in the Project Manual dated November 13, 2015.</u>			
...			
...			
No. 1		November 24, 2015	2 plus 2 page attachment

...

The Drawings are those included in the Project Manual dated November 13, 2015.

...

...

No. 1 November 24, 2015 2 plus 2 page attachment

PAGE 8

~~1. AIA Document E201™ 2007, Digital Data Protocol Exhibit, if completed by the parties, or the following:~~1. All other documents contained in the Project Manual dated November 13, 2015.

2. Certificate of Insurance and endorsements attached to and incorporated in this Agreement by this reference.

3. Performance Bond, Labor and Material Payment Bond, attached to and incorporated in this Agreement by this reference.

~~2. Other documents, if any, listed below:~~

(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A201–2007 provides that bidding requirements such as advertisement or invitation to bid, Instructions to Bidders, sample forms and the Contractor's bid are not part of the Contract Documents unless enumerated in this Agreement. They should be listed here only if intended to be part of the Contract Documents.)4. Prevailing Wage Determination and supersedes notice attached to and incorporated in this Agreement by this reference.

5. Contractor's Proposal, as modified by the Contract Documents, attached to and incorporated in this Agreement by this reference.

6. Contractor's Compliance and Certifications Attachment and Substance Abuse Prevention Program Certification, attached to and incorporated in this Agreement by this reference.

...

(State bonding requirements, if any, and limits of liability for insurance required in Article 11 of AIA Document A201-2007.)

Type of insurance or bond

Limit of liability or bond amount (\$0.00)

WHEATON PARK DISTRICT

VORIS

MECHANICAL,

INC.

Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, Nicole L. Karas, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 14:13:53 on 12/14/2015 under Order No. 0915487018_1 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A101™ – 2007, Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum, as published by the AIA in its software, other than those additions and deletions shown in the associated Additions and Deletions Report.

Nicole L. Karas
(Signed)

Attorney
(Title)

December 14, 2015
(Dated)

AIA® Document A312™ – 2010

Performance Bond

Bond Number: 08884937

CONTRACTOR:

(Name, legal status and address)

Voris Mechanical Inc.
370 Windy Point Drive
Glendale Heights, IL 60139

OWNER:

(Name, legal status and address)

Wheaton Park District
102 E. Wesley
Wheaton, IL 60187

CONSTRUCTION CONTRACT

Date: December 9, 2015

Amount: \$503,806.00 (Five Hundred Three Thousand Eight Hundred Six and 00/100 Dollars)

Description:

(Name and location)

Central Athletic Center New Chiller System
500 S. Naperville Road
Wheaton, IL 60187

BOND

Date: December 21, 2015

(Not earlier than Construction Contract Date)

Amount: \$ 554,186.60 (Five Hundred Fifty-Four Thousand One Hundred Eighty-Six and 60/100 Dollars)

Modifications to this Bond: ☒ XXXX None ☐ See Section 16

CONTRACTOR AS PRINCIPAL

Company: (Corporate Seal)

Voris Mechanical Inc.

Signature: 

Name and Title: **KIMBERLEY A. VORIS**

Title: **PRESIDENT**

(Any additional signatures appear on the last page of this Performance Bond.)

SURETY

Company: (Corporate Seal)

Fidelity and Deposit Company of Maryland

Signature: 
Name and Title: **Luke F. Praxmarer (Attorney-in-Fact)**

(FOR INFORMATION ONLY — Name, address and telephone)

AGENT or BROKER:

Corkill Insurance Agency, Inc.
25 Northwest Point Blvd., Suite 625
Elk Grove Village, IL 60007
Phone: (847) 758-1000

OWNER'S REPRESENTATIVE:

(Architect, Engineer or other party:)

Elara Energy Services, Inc.
30 North Wolf Rd, 2nd Floor
Hillside, IL 60162-1605

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.



Init.

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User Notes:

(1395615300)

§ 1 The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the Owner for the performance of the Construction Contract, which is incorporated herein by reference.

§ 2 If the Contractor performs the Construction Contract, the Surety and the Contractor shall have no obligation under this Bond, except when applicable to participate in a conference as provided in Section 3.

§ 3 If there is no Owner Default under the Construction Contract, the Surety's obligation under this Bond shall arise after

- .1 the Owner first provides notice to the Contractor and the Surety that the Owner is considering declaring a Contractor Default. Such notice shall indicate whether the Owner is requesting a conference among the Owner, Contractor and Surety to discuss the Contractor's performance. If the Owner does not request a conference, the Surety may, within five (5) business days after receipt of the Owner's notice, request such a conference. If the Surety timely requests a conference, the Owner shall attend. Unless the Owner agrees otherwise, any conference requested under this Section 3.1 shall be held within ten (10) business days of the Surety's receipt of the Owner's notice. If the Owner, the Contractor and the Surety agree, the Contractor shall be allowed a reasonable time to perform the Construction Contract, but such an agreement shall not waive the Owner's right, if any, subsequently to declare a Contractor Default;
- .2 the Owner declares a Contractor Default, terminates the Construction Contract and notifies the Surety; and
- .3 the Owner has agreed to pay the Balance of the Contract Price in accordance with the terms of the Construction Contract to the Surety or to a contractor selected to perform the Construction Contract.

§ 4 Failure on the part of the Owner to comply with the notice requirement in Section 3.1 shall not constitute a failure to comply with a condition precedent to the Surety's obligations, or release the Surety from its obligations, except to the extent the Surety demonstrates actual prejudice.

§ 5 When the Owner has satisfied the conditions of Section 3, the Surety shall promptly and at the Surety's expense take one of the following actions:

§ 5.1 Arrange for the Contractor, with the consent of the Owner, to perform and complete the Construction Contract;

§ 5.2 Undertake to perform and complete the Construction Contract itself, through its agents or independent contractors;

§ 5.3 Obtain bids or negotiated proposals from qualified contractors acceptable to the Owner for a contract for performance and completion of the Construction Contract, arrange for a contract to be prepared for execution by the Owner and a contractor selected with the Owner's concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Construction Contract, and pay to the Owner the amount of damages as described in Section 7 in excess of the Balance of the Contract Price incurred by the Owner as a result of the Contractor Default; or

§ 5.4 Waive its right to perform and complete, arrange for completion, or obtain a new contractor and with reasonable promptness under the circumstances:

- .1 After investigation, determine the amount for which it may be liable to the Owner and, as soon as practicable after the amount is determined, make payment to the Owner; or
- .2 Deny liability in whole or in part and notify the Owner, citing the reasons for denial.

§ 6 If the Surety does not proceed as provided in Section 5 with reasonable promptness, the Surety shall be deemed to be in default on this Bond seven days after receipt of an additional written notice from the Owner to the Surety demanding that the Surety perform its obligations under this Bond, and the Owner shall be entitled to enforce any remedy available to the Owner. If the Surety proceeds as provided in Section 5.4, and the Owner refuses the payment or the Surety has denied liability, in whole or in part, without further notice the Owner shall be entitled to enforce any remedy available to the Owner.

§ 7 If the Surety elects to act under Section 5.1, 5.2 or 5.3, then the responsibilities of the Surety to the Owner shall not be greater than those of the Contractor under the Construction Contract, and the responsibilities of the Owner to the Surety shall not be greater than those of the Owner under the Construction Contract. Subject to the commitment by the Owner to pay the Balance of the Contract Price, the Surety is obligated, without duplication, for

- .1 the responsibilities of the Contractor for correction of defective work and completion of the Construction Contract;
- .2 additional legal, design professional and delay costs resulting from the Contractor's Default, and resulting from the actions or failure to act of the Surety under Section 5; and
- .3 liquidated damages, or if no liquidated damages are specified in the Construction Contract, actual damages caused by delayed performance or non-performance of the Contractor.

§ 8 If the Surety elects to act under Section 5.1, 5.3 or 5.4, the Surety's liability is limited to the amount of this Bond.

§ 9 The Surety shall not be liable to the Owner or others for obligations of the Contractor that are unrelated to the Construction Contract, and the Balance of the Contract Price shall not be reduced or set off on account of any such unrelated obligations. No right of action shall accrue on this Bond to any person or entity other than the Owner or its heirs, executors, administrators, successors and assigns.

§ 10 The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders and other obligations.

§ 11 Any proceeding, legal or equitable, under this Bond may be instituted in any court of competent jurisdiction in the location in which the work or part of the work is located and shall be instituted within two years after a declaration of Contractor Default or within two years after the Contractor ceased working or within two years after the Surety refuses or fails to perform its obligations under this Bond, whichever occurs first. If the provisions of this Paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.

§ 12 Notice to the Surety, the Owner or the Contractor shall be mailed or delivered to the address shown on the page on which their signature appears.

§ 13 When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

§ 14 Definitions

§ 14.1 **Balance of the Contract Price.** The total amount payable by the Owner to the Contractor under the Construction Contract after all proper adjustments have been made, including allowance to the Contractor of any amounts received or to be received by the Owner in settlement of insurance or other claims for damages to which the Contractor is entitled, reduced by all valid and proper payments made to or on behalf of the Contractor under the Construction Contract.

§ 14.2 **Construction Contract.** The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and changes made to the agreement and the Contract Documents.

§ 14.3 **Contractor Default.** Failure of the Contractor, which has not been remedied or waived, to perform or otherwise to comply with a material term of the Construction Contract.

§ 14.4 **Owner Default.** Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.

§ 14.5 **Contract Documents.** All the documents that comprise the agreement between the Owner and Contractor.

Init.

§ 15 If this Bond is issued for an agreement between a Contractor and subcontractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

§ 16 Modifications to this bond are as follows:

(Space is provided below for additional signatures of added parties, other than those appearing on the cover page.)

CONTRACTOR AS PRINCIPAL

Company: _____
(Corporate Seal)

SURETY

Company: _____
(Corporate Seal)

Signature: _____
Name and Title: _____
Address: _____

Signature: _____
Name and Title: _____
Address: _____

Init.

AIA® Document A312™ – 2010

Payment Bond

Bond Number: 08884937

CONTRACTOR:

(Name, legal status and address)

Voris Mechanical Inc.
370 Windy Point Drive
Glendale Heights, IL 60139

OWNER:

(Name, legal status and address)

Wheaton Park District
102 E. Wesley
Wheaton, IL 60187

CONSTRUCTION CONTRACT

Date: December 9, 2015

Amount: \$ 503,806.00 (Five Hundred Three Thousand Eight Hundred Six and 00/100 Dollars)

Description:

(Name and location)

Central Athletic Center New Chiller System
500 S. Naperville Road
Wheaton, IL 60187

BOND

Date: December 21, 2015

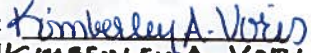
(Not earlier than Construction Contract Date)

Amount: \$554,186.60 (Five Hundred Fifty-Four Thousand One Hundred Eighty-Six and 60/100 Dollars)

Modifications to this Bond: ☒ None ☐ See Section 18

CONTRACTOR AS PRINCIPAL

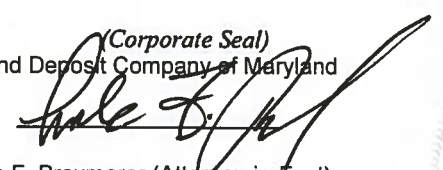
Company: (Corporate Seal)
Voriss Mechanical Inc.

Signature: 
Name and **KIMBERLEY A. VORIS**
Title: **PRESIDENT**

(Any additional signatures appear on the last page of this Payment Bond.)

SURETY

Company: (Corporate Seal)
Fidelity and Deposit Company of Maryland

Signature: 
Name and
Title: Luke F. Praxmarer (Attorney-in-Fact)

(FOR INFORMATION ONLY — Name, address and telephone)

AGENT or BROKER:

Corkill Insurance Agency, Inc.
25 Northwest Point Blvd., Suite 625
Elk Grove Village, IL 60007
Phone: (847) 758-1000

OWNER'S REPRESENTATIVE:

(Architect, Engineer or other party:)

Elara Energy Services, Inc.
30 North Wolf Rd, 2nd Floor
Hillside, IL 60162-1605

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.



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User Notes:

(1231309400)

§ 1 The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the Owner to pay for labor, materials and equipment furnished for use in the performance of the Construction Contract, which is incorporated herein by reference, subject to the following terms.

§ 2 If the Contractor promptly makes payment of all sums due to Claimants, and defends, indemnifies and holds harmless the Owner from claims, demands, liens or suits by any person or entity seeking payment for labor, materials or equipment furnished for use in the performance of the Construction Contract, then the Surety and the Contractor shall have no obligation under this Bond.

§ 3 If there is no Owner Default under the Construction Contract, the Surety's obligation to the Owner under this Bond shall arise after the Owner has promptly notified the Contractor and the Surety (at the address described in Section 13) of claims, demands, liens or suits against the Owner or the Owner's property by any person or entity seeking payment for labor, materials or equipment furnished for use in the performance of the Construction Contract and tendered defense of such claims, demands, liens or suits to the Contractor and the Surety.

§ 4 When the Owner has satisfied the conditions in Section 3, the Surety shall promptly and at the Surety's expense defend, indemnify and hold harmless the Owner against a duly tendered claim, demand, lien or suit.

§ 5 The Surety's obligations to a Claimant under this Bond shall arise after the following:

§ 5.1 Claimants, who do not have a direct contract with the Contractor,

- .1 have furnished a written notice of non-payment to the Contractor, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were, or equipment was, furnished or supplied or for whom the labor was done or performed, within ninety (90) days after having last performed labor or last furnished materials or equipment included in the Claim; and
- .2 have sent a Claim to the Surety (at the address described in Section 13).

§ 5.2 Claimants, who are employed by or have a direct contract with the Contractor, have sent a Claim to the Surety (at the address described in Section 13).

§ 6 If a notice of non-payment required by Section 5.1.1 is given by the Owner to the Contractor, that is sufficient to satisfy a Claimant's obligation to furnish a written notice of non-payment under Section 5.1.1.

§ 7 When a Claimant has satisfied the conditions of Sections 5.1 or 5.2, whichever is applicable, the Surety shall promptly and at the Surety's expense take the following actions:

§ 7.1 Send an answer to the Claimant, with a copy to the Owner, within sixty (60) days after receipt of the Claim, stating the amounts that are undisputed and the basis for challenging any amounts that are disputed; and

§ 7.2 Pay or arrange for payment of any undisputed amounts.

§ 7.3 The Surety's failure to discharge its obligations under Section 7.1 or Section 7.2 shall not be deemed to constitute a waiver of defenses the Surety or Contractor may have or acquire as to a Claim, except as to undisputed amounts for which the Surety and Claimant have reached agreement. If, however, the Surety fails to discharge its obligations under Section 7.1 or Section 7.2, the Surety shall indemnify the Claimant for the reasonable attorney's fees the Claimant incurs thereafter to recover any sums found to be due and owing to the Claimant.

§ 8 The Surety's total obligation shall not exceed the amount of this Bond, plus the amount of reasonable attorney's fees provided under Section 7.3, and the amount of this Bond shall be credited for any payments made in good faith by the Surety.

§ 9 Amounts owed by the Owner to the Contractor under the Construction Contract shall be used for the performance of the Construction Contract and to satisfy claims, if any, under any construction performance bond. By the Contractor furnishing and the Owner accepting this Bond, they agree that all funds earned by the Contractor in the performance of the Construction Contract are dedicated to satisfy obligations of the Contractor and Surety under this Bond, subject to the Owner's priority to use the funds for the completion of the work.

§ 10 The Surety shall not be liable to the Owner, Claimants or others for obligations of the Contractor that are unrelated to the Construction Contract. The Owner shall not be liable for the payment of any costs or expenses of any Claimant under this Bond, and shall have under this Bond no obligation to make payments to, or give notice on behalf of, Claimants or otherwise have any obligations to Claimants under this Bond.

§ 11 The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders and other obligations.

§ 12 No suit or action shall be commenced by a Claimant under this Bond other than in a court of competent jurisdiction in the state in which the project that is the subject of the Construction Contract is located or after the expiration of one year from the date (1) on which the Claimant sent a Claim to the Surety pursuant to Section 5.1.2 or 5.2, or (2) on which the last labor or service was performed by anyone or the last materials or equipment were furnished by anyone under the Construction Contract, whichever of (1) or (2) first occurs. If the provisions of this Paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.

§ 13 Notice and Claims to the Surety, the Owner or the Contractor shall be mailed or delivered to the address shown on the page on which their signature appears. Actual receipt of notice or Claims, however accomplished, shall be sufficient compliance as of the date received.

§ 14 When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

§ 15 Upon request by any person or entity appearing to be a potential beneficiary of this Bond, the Contractor and Owner shall promptly furnish a copy of this Bond or shall permit a copy to be made.

§ 16 Definitions

§ 16.1 Claim. A written statement by the Claimant including at a minimum:

- .1 the name of the Claimant;
- .2 the name of the person for whom the labor was done, or materials or equipment furnished;
- .3 a copy of the agreement or purchase order pursuant to which labor, materials or equipment was furnished for use in the performance of the Construction Contract;
- .4 a brief description of the labor, materials or equipment furnished;
- .5 the date on which the Claimant last performed labor or last furnished materials or equipment for use in the performance of the Construction Contract;
- .6 the total amount earned by the Claimant for labor, materials or equipment furnished as of the date of the Claim;
- .7 the total amount of previous payments received by the Claimant; and
- .8 the total amount due and unpaid to the Claimant for labor, materials or equipment furnished as of the date of the Claim.

§ 16.2 Claimant. An individual or entity having a direct contract with the Contractor or with a subcontractor of the Contractor to furnish labor, materials or equipment for use in the performance of the Construction Contract. The term Claimant also includes any individual or entity that has rightfully asserted a claim under an applicable mechanic's lien or similar statute against the real property upon which the Project is located. The intent of this Bond shall be to include without limitation in the terms "labor, materials or equipment" that part of water, gas, power, light, heat, oil, gasoline, telephone service or rental equipment used in the Construction Contract, architectural and engineering services required for performance of the work of the Contractor and the Contractor's subcontractors, and all other items for which a mechanic's lien may be asserted in the jurisdiction where the labor, materials or equipment were furnished.

§ 16.3 Construction Contract. The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and all changes made to the agreement and the Contract Documents.

Init.

§ 16.4 Owner Default. Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.

§ 16.5 Contract Documents. All the documents that comprise the agreement between the Owner and Contractor.

§ 17 If this Bond is issued for an agreement between a Contractor and subcontractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

§ 18 Modifications to this bond are as follows:

(Space is provided below for additional signatures of added parties, other than those appearing on the cover page.)

CONTRACTOR AS PRINCIPAL

Company:

(Corporate Seal)

SURETY

Company:

(Corporate Seal)

Signature: _____

Name and Title: _____

Address: _____

Signature: _____

Name and Title: _____

Address: _____

Init.

**ZURICH AMERICAN INSURANCE COMPANY
COLONIAL AMERICAN CASUALTY AND SURETY COMPANY
FIDELITY AND DEPOSIT COMPANY OF MARYLAND
POWER OF ATTORNEY**

KNOW ALL MEN BY THESE PRESENTS: That the ZURICH AMERICAN INSURANCE COMPANY, a corporation of the State of New York, the COLONIAL AMERICAN CASUALTY AND SURETY COMPANY, a corporation of the State of Maryland, and the FIDELITY AND DEPOSIT COMPANY OF MARYLAND a corporation of the State of Maryland (herein collectively called the "Companies"), by **MICHAEL BOND, Vice President**, in pursuance of authority granted by Article V, Section 8, of the By-Laws of said Companies, which are set forth on the reverse side hereof and are hereby certified to be in full force and effect on the date hereof, do hereby nominate, constitute, and appoint **Luke F. PRAXMARER, Paul F. PRAXMARER and Rebecca C. SPEES, all of Elk Grove Village, Illinois, EACH** its true and lawful agent and Attorney-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 and undertakings**, 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 ZURICH AMERICAN INSURANCE COMPANY at its office in New York, New York., the regularly elected officers of the COLONIAL AMERICAN CASUALTY AND SURETY COMPANY at its office in Owings Mills, Maryland., and the regularly elected officers of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND at its office in Owings Mills, Maryland., in their own proper persons.

The said Vice President does hereby certify that the extract set forth on the reverse side hereof is a true copy of Article V, Section 8, of the By-Laws of said Companies, and is now in force.

IN WITNESS WHEREOF, the said Vice-President has hereunto subscribed his/her names and affixed the Corporate Seals of the said **ZURICH AMERICAN INSURANCE COMPANY, COLONIAL AMERICAN CASUALTY AND SURETY COMPANY, and FIDELITY AND DEPOSIT COMPANY OF MARYLAND**, this 26th day of October, A.D. 2015.

ATTEST:

**ZURICH AMERICAN INSURANCE COMPANY
COLONIAL AMERICAN CASUALTY AND SURETY COMPANY
FIDELITY AND DEPOSIT COMPANY OF MARYLAND**



By: *Eric D. Barnes*
Secretary
Eric D. Barnes

Michael Bond
Vice President
Michael Bond

State of Maryland
County of Baltimore

On this 26th day of October, A.D. 2015, before the subscriber, a Notary Public of the State of Maryland, duly commissioned and qualified, **MICHAEL BOND, Vice President, and ERIC D. BARNES, Secretary**, of the Companies, to me personally known to be the individuals and officers described in and who executed the preceding instrument, and acknowledged the execution of same, and being by me duly sworn, depose and saith, that he/she is the said officer of the Company aforesaid, and that the seals affixed to the preceding instrument are the Corporate Seals of said Companies, and that the said Corporate Seals and the signature as such 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 the day and year first above written.

Constance A. Dunn

Constance A. Dunn, Notary Public
My Commission Expires: July 9, 2019

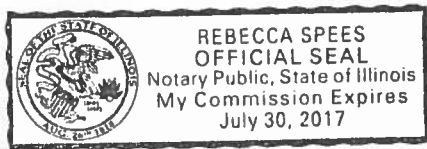


ACKNOWLEDGMENT OF CORPORATE SURETY

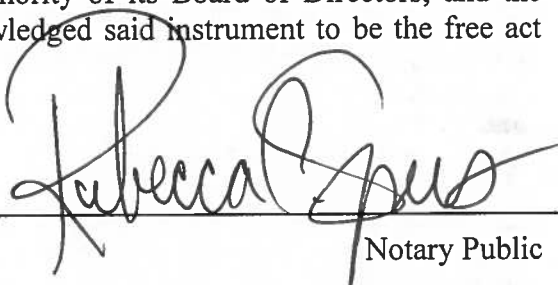
STATE OF ILLINOIS

County of Cook

On this 21st day of December, 2015 before me appeared **Luke F. Praxmarer** to me personally known, who being duly sworn, did say that he/she is the aforesaid officer or attorney in fact of the **Fidelity and Deposit Company of Maryland**, a corporation: that he seal affixed to the foregoing instrument is the corporate seal of said corporation, and that said instrument was signed and sealed on behalf of said corporation by the aforesaid officer (or Attorney-in-Fact), by authority of its Board of Directors; and the aforesaid officer (or Attorney-in-Fact), acknowledged said instrument to be the free act and deed of said corporation.



My Commission Expires:
July 30, 2017



Notary Public

County of Cook, State of Illinois



CERTIFICATE OF LIABILITY INSURANCE

VORIS-1

OP ID: JZ

DATE (MM/DD/YYYY)

12/21/2015

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Corkill Insurance Agency, Inc. 25 Northwest Pt Blvd Ste 625 Elk Grove Village, IL 60007 Luke F. Praxmarer	CONTACT NAME: Luke F. Praxmarer	
	PHONE (A/C, No, Ext): 847-758-1000	FAX (A/C, No): 847-758-1200
INSURED Voris Mechanical Inc. PO Box 5488 Glendale Heights, IL 60139	E-MAIL ADDRESS:	
	INSURER(S) AFFORDING COVERAGE	
	INSURER A: Harleysville Insurance	
	INSURER B:	
	INSURER C:	
	INSURER D:	
INSURER E:		
INSURER F:		
NAIC #		
23582		

COVERAGES**CERTIFICATE NUMBER:****REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC OTHER:			MPA00000027154N	06/01/2015	06/01/2016	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000
A	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS			BA00000027156N	06/01/2015	06/01/2016	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$ 0			CMB00000027153N	06/01/2015	06/01/2016	EACH OCCURRENCE \$ 5,000,000 AGGREGATE \$ 5,000,000
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory In NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N N	N/A	WC27155N	06/01/2015	06/01/2016	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTHER E.I. EACH ACCIDENT \$ 1,000,000 E.I. DISEASE - EA EMPLOYEE \$ 1,000,000 E.I. DISEASE - POLICY LIMIT \$ 1,000,000
A	Leased & Rented Eq			MPA00000027154N	06/01/2015	06/01/2016	Max Item 200,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Job: Central Athletic Center New Chiller System, 500 S. Naperville Road, Wheaton, IL - Wheaton Park District, its elected and appointed officials, employees, agents and volunteers and Elara Energy Services, Inc. are Additional Insured for General Liability if required by written contract. A waiver of subrogation applies in favor of the Additional Insured for

CERTIFICATE HOLDER**CANCELLATION**

WHEATON Wheaton Park District 102 E. Wesley Wheaton, IL 60187	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE
---	---

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NOTEPAD:

HOLDER CODE **WHEATON**
INSURED'S NAME **Voris Mechanical Inc.**

VORIS-1
OP ID: JZ

PAGE 2
Date **12/21/2015**

Workers Compensation if required by written contract. Umbrella follows form.

Coverage applies for ongoing and completed operations.

MCG0013 0704
CG7263 0805



HEATING, PIPING, REFRIGERATION
370 WINDY POINT DRIVE P.O. BOX 5488
GLENDALE HEIGHTS, IL 60139
(630)469-7800 FAX (630)469-7911

LETTER OF TRANSMITTAL

DATE: 12/22/15

TO: Wheaton Park District
1000 Manchester Rd.
Wheaton, IL 60187

RE: Wheaton Park District C.A.C.
New Chiller System
VMI Job# 15-008

ATTN: Ms. Alecia Hannemann
Administrative Assistant

GENTLEMEN:

WE ARE SENDING YOU HERE WITH:

Plans
Letter or copy of

Specifications
Submittal

Pay Request
Shop drawings

Invoice

Change Order

Copies	Date	Description
1	12/09/15	Executed Copy of Agreement, A.I.A.-2007
1	12/21/15	Performance Bond/Payment Bond
1	12/21/15	Certificate of Insurance
1	5/07/15	City of Wheaton Business License Receipt

These are transmitted as checked below:

For approval
☒ For your use
As requested
For record purpose only
Reviewed as noted
FOR BIDS DUE _____

Approved as submitted
Approved as noted
Furnish as corrected
Returned for corrections

Rejected
Revise and resubmit
Return _____ copies for distribution
Resubmit _____ copies for approval

20 _____ PRINTS RETURNED AFTER LOAN TO US

REMARKS: We look forward to a mutually successful project.

COPY TO: File

SIGNED: _____

Gerald T. Voris, Secretary/Treasurer

If enclosures are not as noted, kindly notify us at once.



HEATING, PIPING, REFRIGERATION
370 WINDY POINT DRIVE P.O. BOX 5488
GLENDALE HEIGHTS, IL 60139
(630)469-7800 FAX (630)469-7911

LETTER OF TRANSMITTAL

DATE: 12/22/15

TO: Wheaton Park District
1000 Manchester Road
Wheaton, IL 60187

RE: Wheaton **PARK DISTRICT C.A.C.**
NEW CHILLER SYSTEM
VMI Job# 15-008

ATTN: Ms. Alecia Hannemann
Administrative Assistant

GENTLEMEN:

WE ARE SENDING YOU HERE WITH:

Plans
Letter or copy of

Specifications
Submittal

Pay Request
Shop drawings

Invoice

Change Order

Copies	Date	Description
1	12/09/15	Executed copy of agreement, A.I.A. A101-2007
1	12/21/15	Performance Bond/Payment Bond
1	12/21/15	Certificate of Insurance
1	05/07/15	City of Wheaton Business License Receipt

These are transmitted as checked below:

For approval
X For your use
As requested
For record purpose only
Reviewed as noted
FOR BIDS DUE _____ 20_____

Approved as submitted
Approved as noted
Furnish as corrected
Returned for corrections

Rejected
Revise and resubmit
Return _____ copies for distribution
Resubmit _____ copies for approval

PRINTS RETURNED AFTER LOAN TO US

REMARKS: We look forward to a mutually successful project.

COPY TO: File _____

SIGNED: G.T. Voris
Gerald T. Voris, Secretary/Treasurer

If enclosures are not as noted, kindly notify us at once.

COPY



CITY OF WHEATON
RECEIPT OF PAYMENT

PAYEE Voss Mechanical Inc
ADDRESS 310 W. 1st St
Glendale AZ 85301

PERMIT ADDRESS N/A

ORG	ACCT	DESCRIPTION	AMOUNT
100	2030	DRIVEWAY/STREET DEPOSIT	
100	2030	PARKWAY RESTORATION DEPOSIT	
100	2090	SCHOOL DISTRICT CONTRIBUTIONS	
100	2095	PARK DISTRICT CONTRIBUTIONS	
1000	4210	BUILDING PERMITS	
1000	4220	ELECTRICAL PERMITS	
1000	4230	MECHANICAL PERMITS	
1000	4240	PLUMBING PERMITS	
1000	4250	FIRE PERMIT FEES	
1000	4260	CURB/DRIVE APPROACH/PUBLIC WORKS	
1000	4270	SIGN PERMITS	
1000	4290	MISCELLANEOUS PERMITS	
1000	4410	CONTRACTOR REG/RENEWAL	
1000	4420	CONSULTANT FEES	75.00
1000	4430	SEWER INSPECTION	
1000	4460	ENGINEERING COSTS/FEES/PERMITS	
1000	4480	ZONING APPLICATIONS	
1000	4514	CODE BOOKS/COPIES/DOCUMENTS/MAPS	
500	2033	HYDRANT DEPOSIT	
5000	4562	WATER FOR CONSTRUCTION	
5000	4563	WATER CONNECTION FEES	
5000	4564	WATER INSPECTION FEES	
5000	4566	WATER TAPS	
5000	4568	WATER METERS	
5100	4563	SEWER CONNECTION FEES	
5100	4565	SEWER TAPS	
825	2030	ESCROW	
		TOTAL	75.00

DATE 5-7-15
RECEIVED BY [Signature]

CASH
CHECK # 59143

PERMIT NO. _____