

ORIGINAL

RESOLUTION NO. 2017-32

**A RESOLUTION APPROVING AND AUTHORIZING THE EXECUTION OF
AN AGREEMENT BETWEEN THE VILLAGE OF MAYWOOD
AND COPENHAVER CONSTRUCTION, INC.
RELATIVE TO FIRST AVENUE SANITARY SEWER IMPROVEMENTS PROJECT
AND
FOR THE APPROPRIATION AND EXPENDITURE OF
GENERAL FUNDS TO PAY FOR THE PROJECT**

(Project: Sanitary Sewer Improvements Along The North 500 Block Of First Avenue Including The Installation Of Approximately Two Hundred Feet (200') Of Eight Inch (8") PVC Sanitary Sewer Main, Connection Of Sanitary Sewer Services, Installation Of Manholes, Restoration Of Concrete Curb And Gutter, Sidewalks, Driveway Aprons, Concrete Pavement, Restoration Of Landscaping, And Other Appurtenant Work)

WHEREAS, the President and Board of Trustees of the Village of Maywood, Illinois (the "Village") desire to hire Copenhaver Construction, Inc., (the "Contractor") to furnish and provide all labor, materials, equipment and services and do all else required to perform and complete the following improvements to be made in calendar year 2017: Sanitary sewer improvements along the north 500 block of First Avenue including the installation of approximately two hundred feet (200') of eight inch (8") PVC sanitary sewer main, connection of sanitary sewer services, installation of manholes, restoration of concrete curb and gutter, sidewalks, driveway aprons, concrete pavement, restoration of landscaping, and other appurtenant work (the "First Avenue Sanitary Sewer Improvements Project" or the "Project") in accordance with the terms set forth in the attached "AGREEMENT BETWEEN THE VILLAGE OF MAYWOOD AND COPENHAVER CONSTRUCTION, INC. RELATIVE TO FIRST AVENUE SANITARY SEWER IMPROVEMENTS PROJECT" (the "Agreement"), a copy of which is attached hereto as **Exhibit "A"** and made a part hereof; and

WHEREAS, the monies used to pay for the construction of the Project and the payment of the services provided under the attached Agreement will be paid by funds from the General Fund; and

WHEREAS, the estimated construction cost of the Project is Seventy-Nine Thousand Ten and No/100 Dollars (\$79,010.00); and

WHEREAS, the President and Board of Trustees of the Village of Maywood agree to appropriate and authorize the expenditure of the above-referenced sums from the General Fund for the purpose of paying the cost of the Project; and

WHEREAS, the Village of Maywood, a home rule Illinois municipal corporation, has the authority to approve and enter into the attached Agreement (**Exhibit "A"**) and

to approve the expenditure of its General Funds to pay for the costs associated with the Project pursuant to its home rule powers and contracting authority provided by Article VII, Sections 6 and 10(a) of the Illinois Constitution of 1970, as well as the Illinois Intergovernmental Cooperation Act (5 ILCS 220/1 *et seq.*) and finds that entering into this Agreement is in the best interests of the Village.

NOW, THEREFORE, BE IT RESOLVED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF MAYWOOD, COOK COUNTY, ILLINOIS, AS FOLLOWS:

SECTION 1: Each Whereas paragraph above is incorporated by reference into this Section 1 and made a part hereof as material and operative provisions of this Resolution.

SECTION 2: The President and Board of Trustees of the Village Maywood authorize the approval of the attached "AGREEMENT BETWEEN THE VILLAGE OF MAYWOOD AND COPENHAVER CONSTRUCTION, INC. RELATIVE TO FIRST AVENUE SANITARY SEWER IMPROVEMENTS PROJECT" (the "Agreement"), (**Exhibit "A"**), to be entered into with Copenhaver Construction, Inc., (the "Contractor") for the purpose of performing the work necessary to complete the Project.

SECTION 3: The President and Board of Trustees of the Village of Maywood authorize the expenditure of General Funds to pay for the Project costs, provided for under the attached Agreement.

SECTION 4: The President and Board of Trustees of the Village of Maywood authorize and direct that the Village President, the Village Clerk, the Village Manager, the Village Engineer and the Village Attorney, or their designees, transmit executed originals or certified copies of all documents, including the Agreement, to all parties and agencies that are entitled to receive such documents, as required and directed by any other governmental oversight regulatory agency, in order to comply with the terms of the Agreement. Further, the President and Board of Trustees authorize and direct the Village President and Village Clerk, or their designees, to execute said Agreement, and to execute and deliver all other instruments, payments and documents that are necessary to fulfill the Village's obligations under the Agreement.

ADOPTED this 20th day of June, 2017, pursuant to a roll call vote as follows:

AYES: Mayor Edwenna Perkins, Trustee(s) H. Yarbrough, Sr.,
I. Brandon, A. Sanchez, K. Wellington and M. Lightford

NAYS: None

ABSENT: Trustee R. Rivers

APPROVED this 22nd day of June, 2017, by the Village President of the Village of Maywood, and attested by the Village Clerk on the same day.

Edmund Percher

Village President

ATTEST:

[Signature]

Village Clerk

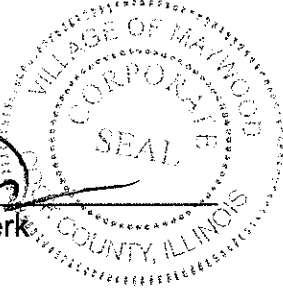


Exhibit "A"

**AGREEMENT BETWEEN THE VILLAGE OF MAYWOOD AND
COPENHAVER CONSTRUCTION, INC. RELATIVE TO
FIRST AVENUE SANITARY SEWER IMPROVEMENTS PROJECT**

(attached)

**AGREEMENT BETWEEN THE VILLAGE OF MAYWOOD AND
COPENHAVER CONSTRUCTION, INC. RELATIVE TO
FIRST AVENUE SANITARY SEWER IMPROVEMENTS PROJECT**

This AGREEMENT is made this ____ day of _____, 2017, by and between the VILLAGE OF MAYWOOD, Cook County, Illinois, an Illinois Municipal Corporation (hereinafter referred to as the "VILLAGE") and Copenhaver Construction, Inc., 75 Koppie Drive, Gilberts, Illinois 60136, an Illinois Corporation (hereinafter referred to as the "CONTRACTOR").

The VILLAGE and CONTRACTOR agree as set forth below:

1. The CONTRACTOR, for the considerations hereinafter set forth, hereby agrees to and with the VILLAGE, that it will furnish and provide all labor, materials, equipment and services and do all else required to perform and complete the First Avenue Sanitary Sewer Improvements Project, Village of Maywood, Illinois, Cook County (the "Project"), as set forth in any clarifications or addendums, the Project Specifications and Bidding Documents, and the Project Plans entitled "First Avenue Sanitary Sewer Improvements Project, Village of Maywood, Illinois, Cook County", prepared by Edwin Hancock Engineering Co., consisting of five (5) pages with the latest revision date of April 21, 2017, attached hereto, made a part hereof, and designated as Exhibit "A" and Exhibit "B" respectively (the "Work"). In the event of any conflict or inconsistency between this Agreement and Exhibits the terms of this Agreement shall control.
2. The effective date of this Agreement is the date the VILLAGE executes the Agreement by signing below. The Agreement shall remain in effect until the completion of the Project or until mutually terminated by the parties. The work to be performed under this Agreement shall be commenced within ten (10) days of the date of this Agreement and shall be completed within thirty-five (35) calendar days from the Notice of Award. Upon satisfactory completion of the Project, the VILLAGE'S only continuing obligation is to pay the CONTRACTOR for the work performed in accordance with the terms of this Agreement.
3. The VILLAGE shall pay the CONTRACTOR for completion of the Work in accordance with the Contract Documents, and subject to additions and deductions by Change Order(s) as provided in the Contract Documents, the sum of Seventy-Nine Thousand Ten and 00/100 Dollars (\$79,010.00). The Contract Price has been determined pursuant to the CONTRACTOR'S Proposal dated May 4, 2017.
4. If the rate of progress is satisfactory to the VILLAGE, payment requests will be submitted by the CONTRACTOR to the VILLAGE once a month during the progress of the improvement for ninety percent (90%) of the value of the work done and in place at the date of the preparation of the payment estimate. Payment will be made to the CONTRACTOR once all required waivers of lien for material suppliers and subcontractors have been submitted to the VILLAGE. The waivers of lien will be for the amount of the current payment estimate, except for the final estimate where the waivers of lien shall be for the total contract amount. Upon final completion and acceptance of the work, a final estimate will be issued for the total amount due under the Contract, less previous payments and liquidated damages.
5. If a dispute arises between any of the Parties concerning this Agreement, the Parties will first attempt to resolve the dispute by negotiation. Each Party will designate persons to negotiate on their behalf. The Party contending that a dispute exists must specifically identify in writing all issues and present it to the other Parties. The Parties will meet and negotiate in an

attempt to resolve the matter. If the dispute is resolved as a result of such negotiation, there must be a written determination of such resolution, and ratified by the corporate authorities of each Party, which will be binding upon the Parties. If necessary, the Parties will execute an addendum to this Agreement. Each Party will bear its own costs, including attorneys' fees, incurred in all proceedings in this Section. If the Parties do not resolve the dispute through negotiation, any Party to this Agreement may pursue other remedies to enforce the provisions of this Agreement subject to Section 6 below. During the dispute resolution process, the CONTRACTOR must proceed diligently with the performance of Services.

6. This Agreement provides for the performance of a Project within the State of Illinois. Accordingly, this Agreement, and all questions of interpretation, construction and enforcement hereof, and all controversies hereunder, shall be governed by the applicable statutory and common law of the State of Illinois. The parties agree that for the purpose of any litigation relative to this Agreement and its enforcement, venue shall be in the Circuit Court of Cook County, Illinois and the parties consent to the in personam jurisdiction of said Court for any such action or proceeding.
7. CONTRACTOR will indemnify and hold harmless, protect and defend, at CONTRACTOR'S own cost and expense, the VILLAGE, its officers, officials, Village President and Board of Trustees, agents, employees, volunteers, representatives, assigns, successors, transferees, licensees, invitees, attorneys, or other persons or property standing in the interest of the VILLAGE, from any and all risks, lawsuits, actions, damages, losses, expenses (including attorneys' fees), claims, or liabilities of any character, brought because of any death, injuries or damages received or sustained by any person, persons, or property on account of any act, omission, neglect or misconduct of CONTRACTOR, its officers, agents and/or employees, including any of its subcontractors, or arising out of or in performance of any provision of this Agreement or the performance of the work in completing the Project, including any claims or amounts arising or recovered under the Workers' Compensation Act or any other law, ordinance, order or decree.
8. During the term of this Agreement, CONTRACTOR shall provide the following types of insurance, written on the comprehensive form and as an "occurrence" policy, in not less than the specified amounts:
 - a. Comprehensive General Liability - \$1,000,000 per occurrence.
 - b. Workers' Compensation – Statutory.
 - c. Employer's Liability: \$500,000 per incident.
 - d. Umbrella Coverage - \$1,000,000 per occurrence.
 - e. Automobile Coverage - \$1,000,000 per occurrence.

CONTRACTOR shall furnish to the VILLAGE, prior to commencing any activities under this Agreement, satisfactory proof of the above insurance requirements by a reliable insurance company or companies authorized to do business in Illinois. Such proof shall consist of certificates executed by the respective insurance companies and filed with the VILLAGE. Said certificates shall list the VILLAGE OF MAYWOOD and its officers, officials, Village President and Board of Trustees, agents, employees, volunteers, representatives, assigns, successors, transferees, licensees, invitees, and attorneys, and EDWIN HANCOCK ENGINEERING COMPANY and its agents and employees as additional insureds on all required insurance policies.

9. CONTRACTOR certifies as follows:

- a. That any work to be performed by it or its contractors on VILLAGE-owned property shall be in a good and workmanlike manner and in accordance with all applicable federal, state, and county laws and regulations and the Village codes, ordinances, and regulations, including but not limited to all local zoning ordinances and regulations, and other applicable codes.
- b. That it is not barred from contracting with any unit of State or local government as a result of violating Section 33E-3 or 33E-4 of the Illinois Criminal Code (720 ILCS 5/33E-3 and 33E-4).
- c. That neither it nor any of its principals, shareholders, members, partners, or affiliates, as applicable, is a person or entity named as a Specially Designated National and Blocked Person (as defined in Presidential Executive Order 13224) and that it is not acting, directly or indirectly, for or on behalf of a Specially Designated National and Blocked Person. CONTRACTOR further represents and warrants to the VILLAGE that the CONTRACTOR and its principals, shareholders, members, partners, or affiliates, as applicable, are not, directly or indirectly, engaged in, and are not facilitating, the transactions contemplated by this Agreement on behalf of any person or entity named as a Specially Designated National and Blocked Person. The CONTRACTOR agrees to defend, indemnify and hold harmless the VILLAGE, their respective corporate authorities, and all of the VILLAGE'S elected or appointed officials, officers, employees, agents, representatives, engineers, and attorneys, from and against any and all claims, damages, losses, risks, liabilities, and expenses (including reasonable attorneys' fees and costs) arising from or related to any breach of the representations and warranties in this subsection
- d. That it shall comply with any and all applicable laws, regulations and rules promulgated by any Federal, State, County, local, or other governmental authority or regulatory body pertaining to all aspects of the Project, now in effect, or which may become in effect during the performance of the Project. The scope of the laws, regulations and rules referred to in this paragraph includes, but is in no way limited to, the Occupational Safety and Health Act standards, the Illinois Human Rights Act, the Illinois Equal Pay Act of 2003, along with the standards and regulations promulgated pursuant thereto (including but not limited to those safety requirements involving work on elevated platforms), all forms of traffic regulations, public utility, Interstate and Intrastate Commerce Commission regulations, Workers' Compensation Laws, the Substance Abuse Prevention on Public Works Projects Act, Prevailing Wage Laws, the Smoke Free Illinois Act, the USA Security Act, the Federal Social Security Act (and any of its titles), and any other law, rule or regulation of the Illinois Department of Labor, Illinois Department of Transportation, Illinois Environmental Protection Act, Illinois Department of Human Rights, Human Rights Commission, EEOC, and the Village of Maywood.
- e. That it shall comply with the Illinois Drug Free Work Place Act (30 ILCS 580/1 et seq.).
- f. To the extent required by law, it agrees to comply with the provisions of the Employment of Illinois Workers on Public Works Act (30 ILCS 570/0.01 et seq.).
- g. That it shall comply with the Preference to Veterans Act (330 ILCS 55).
- h. In the performance of its obligations pursuant to this Agreement, it agrees not to commit unlawful discrimination and agrees to comply with all applicable provisions of the Illinois Human Rights Act, Title VII of the Civil Rights Act of 1964, as amended, the Americans with Disabilities Act, the Age Discrimination in Employment Act, Section 504 of the Federal Rehabilitation Act, and all applicable rules and regulations. The CONTRACTOR maintains a written Sexual Harassment Policy in compliance with Section 2-105 of the Illinois Human Rights

Act (775 ILCS 5/2-105(A)(4)). The CONTRACTOR certifies that it is an "Equal Opportunity Employer" as defined by federal and State laws and regulations, and agrees to comply with the Illinois Department of Human Rights ("IDHR") Equal Opportunity Employment clause as required by the IDHR's Regulations (44 Ill. Admin. Code, Part 750, Appendix A). As required by Illinois law and IDHR Regulation, the Equal Opportunity Employment clause is incorporated by reference in its entirety as though fully set forth herein. The CONTRACTOR certifies that it agrees to comply with the Prohibition of Segregated Facilities clause, which is incorporated by reference in its entirety as though fully set forth herein. See, Illinois Human Rights Act (775 ILCS 5/2-105). See also, Illinois Department of Human Rights Rules and Regulations, Title 44, Part 750. Administrative Code, Title 44: Government Contracts, Procurement and Property Management, Subtitle B: Supplemental Procurement Rules, Chapter X: Department of Human Rights, Part 750: Procedures Applicable to All Agencies, Section 750.160: Segregated Facilities (44 Ill. Admin. Code 750.160). Any complaint of such discrimination received by the CONTRACTOR shall be immediately forwarded to the VILLAGE.

- i. That it shall comply with all applicable federal and state laws and regulations including, but not limited to, such laws and regulations relating to minimum wages to be paid to employees, limitations upon the employment of minors, minimum fair wage standards for minors, payment of wages due employees, and health and safety of employees, including the Illinois Prevailing Wage Act (820 ILCS 130/0.01 et seq.). CONTRACTOR agrees to pay its employees, if any, all rightful salaries, medical benefits, pensions and social security benefits pursuant to applicable labor agreements and federal and state statutes, and CONTRACTOR further agrees to make all required withholdings and deposits therefore. Such requirements shall be included by CONTRACTOR in all its contracts and agreements with any of its subcontractors for work to be performed pursuant to this Agreement. Any contracts entered into by CONTRACTOR with subcontractors for work to be performed pursuant to this Agreement must adhere to and require compliance with the Illinois Prevailing Wage Act (820 ILCS 130/0.01 et seq.).
 - j. CONTRACTOR also agrees to require any subcontractor doing work under this Agreement to agree to adhere to the requirements of this Section.
10. The definition of a public record in the Freedom of Information Act (5 ILCS 140/1 et seq.) ("FOIA") includes a "public record that is not in the possession of a public body but is in the possession of a party with whom the agency has contracted to perform a governmental function on behalf of the public body and that directly relates to the governmental function and is not otherwise exempt under this Act." (5 ILCS 140/7(2)). Consequently, the Parties must maintain and make available to the other Parties, upon request, their public records relating to the performance of this Agreement in compliance with the requirements of the Local Records Act (50 ILCS 205/1 et seq.) and FOIA. To facilitate a response by the VILLAGE to any FOIA request, CONTRACTOR agrees to provide all requested public records within five (5) business days of a request being made by the VILLAGE. CONTRACTOR agrees to defend, indemnify and hold harmless the VILLAGE and VILLAGE Affiliates, and agrees to pay all reasonable costs connected therewith (including, but not limited to, reasonable attorney and witness fees, filing fees and any other expenses) for the VILLAGE to defend any and all causes, actions, causes of action, disputes, prosecutions or conflicts arising from CONTRACTOR's actual or alleged violation of the FOIA or the CONTRACTOR's failure to furnish all public records as requested by the VILLAGE. Furthermore, should CONTRACTOR request that the VILLAGE utilize a lawful exemption under FOIA in relation to any FOIA request thereby denying that request, CONSULTANT

agrees to pay all costs connected therewith (such as reasonable attorney and witness fees, filing fees and any other expenses) to defend the denial of the request. The defense shall include, but not be limited to, challenged or appealed denials of FOIA requests to either the Illinois Attorney General or a court of competent jurisdiction. CONTACTOR agrees to defend, indemnify and hold harmless the VILLAGE and VILLAGE Affiliates, and agrees to pay all costs incurred by the VILLAGE connected therewith (such as reasonable attorney and witness fees, filing fees, penalties, fines, and any other expenses) to defend any denial of a FOIA request pursuant to CONTACTOR's request to utilize a lawful exemption.

11. CONTRACTOR shall maintain a current, valid VILLAGE business license and shall post with the VILLAGE and keep on file and in force for the duration of this Agreement a contractor's license bond in the amount required by the Village Code.
12. The waiver of one party of any breach of this Agreement or the failure of one party to enforce any provisions hereof, shall be limited to the particular instance and shall not operate to bar or be deemed a waiver of enforcing against other or future breaches.
13. After this Agreement has been signed by CONTRACTOR, the Agreement shall be deemed dated and become effective on the date that the Village President signs the Agreement.

THIS AGREEMENT shall be in effect as of the date the last of the Parties executes this Agreement, which date shall be set forth in the first paragraph hereof.

Copenhaver Construction, Inc.,
an Illinois corporation

VILLAGE OF MAYWOOD,
an Illinois municipal corporation

By: _____
Name: _____
Title: _____

By: _____
Edwenna Perkins
Village President

Date: _____

Date: _____

ATTEST:

ATTEST:

By: _____
Name: _____
Title: _____

By: _____
Viola Mims
Village Clerk

Date: _____

Date: _____

