

CONCRETE WALKWAY CONSTRUCTION AGREEMENT

This Concrete Walkway Construction Agreement (the "Agreement") is entered this 8th day of July, 2008, between the Hanover Township, an Illinois township (the "Township" or "Owner") and Precision Concrete and Asphalt, Inc., an Illinois corporation ("Contractor") (collectively, the "Parties").

IN CONSIDERATION of the covenants and conditions herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the Parties, the Parties hereby agree as follows:

1. Contractor shall install and construct two concrete walkways and one ADA compliant handicap ramp in strict compliance with the terms and conditions herein, all applicable Laws, and the Specifications (consisting of 3 pages) attached hereto as Exhibit A and incorporated herein (collectively, "Walkways"). The Walkway connecting the existing sidewalk located at 240 S. Route 59, Bartlett, Illinois, 60103 (the "Senior Center") with the Township Administrative Building parking lot located at 250 S. Route 59, Bartlett, Illinois, 60103 (the "Administrative Facilities") shall be four (4) lineal feet in width and approximately 150 lineal feet in length, as depicted on Exhibit A-2. The Walkway to be constructed between the Senior Center parking lot and the Victory Center parking lot located at 848 W. Bartlett Road, Bartlett, Illinois, 60103 (the "Victory Center") shall be 8 lineal feet in width and approximately 170 lineal feet in length as depicted on Exhibit A-3. The ADA compliant handicap ramp shall be constructed as depicted on Exhibit A-3. The project consists of all excavation, removal and disposal of all excess spoils, removal and replacement of curbs, installation of drain tile, tree relocation, and construction and installation of the Walkways and ADA compliant handicap ramp and all ancillary work relative thereto in strict compliance with the Specifications, the terms and conditions herein and all applicable Laws (the "Project Work"). The Administrative Facilities, Senior Center and Victory Center are hereby collectively referred to herein as the Project Site.

2. **Completion Date.** Contractor shall complete the Project Work in strict compliance with the Specifications and requirements herein on or before July 31, 2008, weather permitting. Time is of the essence of this Contract.

3. **Payment.** The Contract Sum for the Project Work is \$12,920.00 (the "Contract Sum"). The Contract Sum includes all costs attributable to the Project Work, including but not limited to, all materials, equipment, labor, warranties, licenses, insurance, Performance and Payment Bond (or letter of credit as the case maybe), fees, expenses, costs, profits and overhead. The Township will tender payment to Contractor of the Contract Sum for the Project Work, Repair Work, and Warranty herein provided, after the Township determines that the Project Work and Repair Work required hereunder has been completed in strict compliance with the Specifications and requirements set forth herein and is free from any defects and following receipt of the Payment Request Documentation required herein.

4. **Material Inspection and Responsibility.** Materials, the style, make or quality of which is specifically designated, shall be as specified. Should any substitution of material or item of equipment or apparatus be made, the Township's written approval must be obtained prior to installation.

5. **Non-Discrimination.** Contractor shall not discriminate against any worker, employee or applicant or any member of the public because of religion, race, sex, color, national origin, marital status, ancestry, age, physical or mental disability unrelated to ability, or an unfavorable discharge from the military service, nor otherwise commit an unfair employment practice.

6. **Compliance With Law.** All goods, equipment, and all labor furnished by Contractor and subcontractors of every tier shall comply with all applicable Federal, State and local laws relative thereto including, but not limited to, all safety related regulations as required by the Federal Occupational Safety and Health Act (OSHA), the Americans with Disabilities Act of 1990, as amended (ADA), Illinois and United States Department of Labor (IDOL and USDOL), EEOC, Human Rights Commission, Illinois Department of Human Rights and all applicable Villages of Bartlett Ordinances and Codes including, but not limited to applicable Village of Bartlett Building Codes, with the most stringent standards governing (collectively, the "Laws"). To the fullest extent permitted by law, the Contractor shall indemnify, defend, and hold harmless the Township and its officials, officers, employees and volunteers from all loss or damage, including, but not limited to, attorney's fees, and other costs of defense by reason of actual or alleged violations any Laws, in the performance of the Project Work, including but not limited to any product liability claims. This obligation shall survive the expiration and/or termination of this Agreement.

7. **Indemnity.** To the fullest extent permitted by law, the Contractor shall indemnify, defend and hold harmless Hanover Township, and its officials, officers, employees, and volunteers (the "Indemnified Parties"), against all injuries, deaths, damage to property, loss, damages, claims, patent claims, suits, liens, lien rights, liabilities, judgments, costs and expenses, which may in any way arise directly or indirectly from (i) the Project Work, Repair Work, and/or Warranty Work provided hereunder; (ii) any acts and/or omissions of or on behalf of the Contractor, its employees, contractors, subcontractors of any tier, suppliers, and/or agents; and/or (iii) any breach or default under this Agreement by Contractor; except to the extent attributable to the negligence of a party indemnified hereunder; in which case Contractor shall at its own expense, appear, defend and pay all charges of attorneys and costs and other expenses arising therefrom or incurred in connection therewith, and if any judgment shall be rendered against the Indemnified Parties in any such action, Contractor agrees that any bond or insurance protection required herein, or otherwise provided by Contractor, shall in no way limit the responsibility to indemnify, keep and save harmless and defend the Indemnified Parties as herein provided. This obligation shall survive the expiration and/or termination of this Agreement.

8. **Binding Obligation and Non-Assignability.** Contractor shall not assign the whole or any part of this Agreement without the written consent of the Township. All subcontractors shall be approved by the Township.

9. Taxes. The Township is a Tax Exempt Organization and is not subject to sales, consumer, use, and other similar taxes required by law. This exemption does not, however, apply to tools, machinery, equipment or other property leased by the Contractor, or Subcontractors, or to suppliers and materials which, even though they are consumed are not incorporated into the completed Project. The Contractor and Subcontractors shall be responsible for and pay any and all applicable taxes, including sales and use taxes, on such leased tools, machinery, equipment or other property and upon such unincorporated supplies and materials the cost of which is included in the Contract Sum set forth in Section 3 above.

10. Investigations by Contractor. Contractor has made such investigations as it deems necessary to perform the Project Work, including, but not limited to, Project Site inspections, and represents and warrants that the Specifications are adequate and the required result can be produced under the Specifications and requirements herein. No plea of ignorance of conditions that exist or of conditions or difficulties that may be encountered in the execution of the Project Work under this Agreement as a result of failure to make the necessary investigations will be accepted as an excuse for any failure or omission on the part of Contractor to fulfill in every detail all of the requirements of this Agreement, the Specifications, or will be accepted as a basis for any claims whatsoever, for extra compensation.

11. Insurance Requirements.

A. Throughout the duration of the Project Work, including during the performance of the Repair Work and any Warranty Work required herein, Contractor, at its sole cost, shall maintain insurance with the following minimum types and amounts of coverages:

Commercial General Liability:	\$1,000,000 each occurrence, \$2,000,000 aggregate.
Worker Compensation:	State of Illinois Statutory Coverage.
Excess/Umbrella Liability	\$1,000,000 each occurrence, \$1,000,000 aggregate.
Employer's Liability:	\$500,000 each accident for bodily injury by accident and \$500,000 each employee for bodily injury by disease.
Business Auto Liability:	\$1,000,000, each accident, covering liability arising out of "Any Auto" including owned, hired and non-owned autos.

Contractor will cause Hanover Township, and its officials, officers, employees, agents, and volunteers, to be named as Additional Insured (collectively, the "Additional Insured") under

the CGL coverage using ISO additional insured endorsement CG 20 10 or a substitute providing equivalent coverage, and under its Business Auto Liability coverage and Commercial Umbrella coverage.

Any endorsement(s) or provision(s) which limits contractual liability shall be deleted in their entirety. Said insurance coverage shall be primary as respects the Additional Insured and shall state that it shall apply separately to each insured against whom claim is made or suit is brought. Any insurance or self-insurance maintained by the Additional Insured shall be in excess of the Contractor's insurance and shall not contribute with it.

CGL insurance shall be written on Insurance Services Office (ISO) occurrence form CG 00 01 10 93, or a substitute form providing equivalent coverage, and shall cover liability arising from premises, operations, administration of the work, independent contractors, subcontractors, sub-subcontractors, vendors and suppliers, products-completed operations, personal injury and advertising injury, and liability assumed under an insured contract (including the tort liability of another assumed in a business contract).

B Continuing Completed Operations Liability Insurance.

Contractor shall maintain commercial general liability (CGL) and commercial umbrella liability insurance with limits of not less than \$1,000,000 each occurrence for at least three (3) years following substantial completion of the Project Work.

Continuing CGL insurance shall be written on ISO occurrence form CG 00 01 10 93, or substitute form providing equivalent coverage, and shall, at minimum, cover liability arising from products-completed operations and liability assumed under an insured contract.

Continuing CGL insurance shall have a products-completed operations aggregate of at least two times its each occurrence limit.

Continuing commercial umbrella coverage, shall include liability coverage for damage to the insured's completed work equivalent to that provided under ISO form CG 00 01.

C. Evidence of Insurance.

Prior to beginning work, Contractor shall furnish the Township with a certificate(s) of insurance and applicable policy endorsement(s), including but not limited to the additional insured endorsements required herein, executed by a duly authorized representative of each insurer, showing compliance with the insurance requirements set forth above.

All certificates shall provide for 30 days' written notice to the Township prior to the cancellation or material change of any insurance referred to therein. Written notice to the Township shall be by certified mail, return receipt requested.

Failure of the Township to demand such certificate, endorsement or other evidence of full compliance with these insurance requirements or failure of the Township to identify a

deficiency from evidence that is provided shall not be construed as a waiver of Contractor's obligation to maintain such insurance.

The Township shall have the right, but not the obligation, of prohibiting Contractor from beginning work until such certificates or other evidence that insurance has been placed in complete compliance with these requirements is received and approved by the Township.

Failure to maintain the required insurance may result in termination of this Agreement.

Contractor shall provide certified copies of all insurance policies required above within 10 days of written request for said copies by the Township.

D. Acceptability of Insurers.

For insurance companies which obtain a rate from A.M. Best, that rating should be no less than A VII using the most recent edition of the A.M. Best's Key Rating Guide. If the Best's rating is less than A VII or a Best's rating is not obtained, the Township has the right to reject insurance written by an insurer it deems unacceptable.

E. Cross-Liability Coverage.

If Contractor's liability policies do not contain the standard ISO separation of insured's provision, or a substantially similar clause, they shall be endorsed to provide cross-liability coverage.

F. Deductibles and Self-Insured Retentions.

Any deductibles or self-insured retentions must be declared to the Township. At the option of the Township, the Contractor may be asked to eliminate such deductibles or self-insured retentions as respects the Township, and/or its officers, officials, employees, agents, and volunteers, or required to procure a bond (in addition to the Bond hereinafter described) guaranteeing payment of losses and other related costs, including, but not limited to investigations, claim administration and defense expenses.

G. Subcontractors.

Contractor shall cause each subcontractor employed by Contractor to purchase and maintain insurance of the type specified above. When requested by the Township, Contractor shall furnish copies of certificates of insurance evidence coverages for each subcontractor.

12. Performance Bond, Labor and Material Payment Bond. Prior to commencement of the Project, Contractor shall furnish the Township with (i) a performance bond, labor and material payment bond in the amount of 110% of the Contract Sum in the form attached hereto as Exhibit B or in form otherwise acceptable to the Township (the "Bond"), co-signed by a surety authorized by the Illinois Department of Insurance to sell and issue sureties in the State of Illinois; or (ii) an irrevocable letter of credit in the amount of 110% of the Contract Sum issued by a financial institution with at least \$40,000,000 in assets and a capital to asset ratio of not less than 6% in form acceptable to the Township;

to guaranty the performance of the Contractor's obligations herein and the payment of all labor and materials furnished for the Project Work. The cost of said Bond or letter of credit, as the case may be, is included in the Contract Sum set forth in paragraph 3.

13. Prevailing Wages. All work on the Project will be subject to the provisions of the Illinois Prevailing Wage Act (820 ILCS 130/01, *et seq.*) providing for the payment of prevailing rate of wages. Accordingly, Contractor and all subcontractors of every tier shall pay not less than prevailing wages to all laborers, workers and mechanic's performing work on or in connection with the Project Work, Repair Work and/or Warranty Work in accordance with the requirements of the Act and shall otherwise comply with the requirements of the Act, including but not limited to furnishing certified payrolls in accordance with the Act. A copy of the current prevailing wages for Cook County is attached hereto as Exhibit C and is incorporated herein.

14. Warranty. Contractor expressly warrants to the Township that the Project Work and all labor, equipment, materials, and/or supplies furnished on or for the Project Work will be free from defects, and Contractor shall repair and/or replace such defective Project Work, at no cost to the Township for a period of one (1) year commencing upon the completion of the Project Work and acceptance of same by the Township (the "Warranty Work").

15. Default. In the event of default hereunder, the non-defaulting party shall be entitled to all remedies available at law and/or equity, including reasonable attorney's fees subject to the limitations set forth in paragraph 20 herein.

16. Notice. Any notice or other communication required or permitted to be given under this Agreement shall be in writing and shall be deemed served (a) when delivered by Federal Express or similar overnight courier service to that party's address set forth below during the hours of 9:00 a.m. and 5:00 p.m. local time Monday through Friday, excluding federal holidays; (b) when mailed to any other person designated by that party in writing herein to receive such notice, via certified mail, return receipt requested, postage prepaid; (c) or via fax. Fax notice shall be effective as of date and time of facsimile transmission, provided that the notice transmitted shall be sent on business days during business hours (9:00 A.M. to 5:00 P.M. Chicago time). In the event fax notice is transmitted during non-business hours, the effective date and time of notice is the first hour of the first business day after transmission. Notice shall be given to the following:

If to Contractor:

Precision Concrete and Asphalt, Inc.
27W250 St. Charles Road
West Chicago, Illinois, 60185
Attention: Jeff Stiles
Fax: (630) 293-8331

If to the the Township:

Hanover Township
250 South Route 59,
Bartlett, Illinois, 60103
Attention: Michael Kelly and James Barr
Fax: (630) 837-7449

With a required copy to:

Bryan E. Mraz and Associates
111 E. Irving Park Road
Roselle, Illinois, 60172
Attention: Laurence J. Mraz
Fax: (630) 529-2019

Any of the above mentioned entities may change the place of notice to it by sending written notice to the other above mentioned entities.

17. **Repair Work.** Upon completion the Project Work and/or any Warranty Work, Contractor shall repair any damage to the Project Site and/or any other Township property attributable to acts and/or omissions of Contractor, its employees, subcontractors of any tier, agents, or otherwise attributable to the Project Work and/or Warranty Work including, but not limited to, performing backfilling, grading, seeding and erosion control (the "Repair Work"). The Repair Work shall be completed within fourteen (14) days of the respective completion of the Project Work and/or Warranty Work (the "Repair Completion Date").

18. The (a) Specifications, (b) the Performance Bond-Labor and Material Payment Bond, and (c) all Exhibits and documents referred to herein are hereby expressly incorporated herein and made a part hereof as though fully set forth in the body of this Agreement. In the event of any conflict between the terms and conditions of any of said documents, the most stringent terms and conditions shall control.

19. A. Upon completion of the Project Work and any Repair Work required hereunder, Contractor shall submit the following documentation to the Township:

General Contractor's Sworn Statement in form customarily used by Chicago Title & Trust Company, and final lien waivers from: (i) Contractor; (ii) all subcontractors of every tier that furnished labor and/or materials in connection with the Project Work; and (iii) all

suppliers that furnished materials in connection with the Project Work (collectively, "Payment Request Documentation").

B. Notwithstanding the foregoing, in no event shall acceptance of the Project Work and Contractor's Payment Request Documentation and/or any payment to Contractor be deemed a waiver, expressed or implied, of any warranties and/or guaranties required herein.

20. Limitation on the Liability of the Township. The Contractor agrees to waive any right which it may have to punitive, consequential, special, indirect, incidental, and/or exemplary damages and/or lost profits against the Township and agrees not to make any claim or demand for such damages and/or lost profits against the Township.

21. Hazardous Substances. Contractor shall not cause or permit any Hazardous Substances to be brought upon, kept, stored or used in or about the Project Site and/or any other property owned, leased or controlled by the Township ("Owner's Property") by contractor, its employees, subcontractors of any tier, suppliers and anyone for whose acts and/or omissions for whom Contractor may be liable (collectively "Contractor's Agents"). If the presence of Hazardous Substances brought upon, kept, stored or used in or about any of the Owner's Property by or on behalf of Contractor or Contractor's Agents in violation of this paragraph, results in contamination of the said Property, Contractor shall pay for all actual costs of clean up and shall indemnify, hold harmless and defend the Township, and its employees, agents, volunteers, officers, and officials from and against any and all claims, demands, expenses (including reasonable attorneys' fees), costs, fines, penalties and other liabilities of any and every kind and nature, including, but not limited to, costs and expenses incurred in connection with any clean-up, remediation, removal or restoration work required by any federal, state or local governmental authority because of the presence of any such Hazardous Substances on or about said Property.

For purposes hereof, Hazardous Substances shall include, but not be limited to, substances defined as "hazardous substances," "toxic substances" in the federal Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended; the federal Hazardous Materials Transportation Act, as amended; and the federal Resource Conservation and Recovery Act, as amended ("RCRA"); those substances defined as "hazardous substances," "materials," or "wastes" under any Federal law or the law of the State of Illinois; and as such substances are defined in any regulations adopted and publications promulgated pursuant to said laws (collectively, "Environmental Laws"). If Contractor's activities or the activities of any of Contractor's Agents violate or create a risk of violation of any Environmental Laws, Contractor shall cause such activities to cease immediately upon notice from the Township. Contractor shall immediately notify the Township both by telephone and in writing of any spill or unauthorized discharge of Hazardous Substances or of any condition constituting an "imminent hazard" under any Environmental Laws.

Contractor's indemnification obligations and duties hereunder shall survive the termination and/or expiration of this Contract.

22. Delays in Project Work. Notwithstanding any provision herein to the

contrary, the Contractor shall not be entitled to an increase in the Contract Sum as a result of any delays in the progress of the Work. The Contractor's sole remedy for delay shall be an extension of time.

If the Contractor, but for a delay not within the Contractor's control, would have completed the Work prior to the project completion date, the Contractor shall not be entitled to any recovery of damages arising out of any event of delay which prevented such early completion of the Work.

23. Relationship of the Parties. It is understood, acknowledged and agreed by the parties that the relationship of the Contractor to the Township arising out of this Agreement shall be that of an independent contractor. Neither Contractor, nor any employee or agent of Contractor, is an employee, partner, joint venturer, and/or agent of the Township, and therefore is not entitled to any benefits provided to employees of the Township. Contractor has no authority to employ/retain any person as an employee or agent for or on behalf of the Township for any purpose. Neither Contractor nor any person engaging in any work or services related to this Agreement at the request or with the actual or implied consent of the Contractor may represent himself to others as an employee of the Township. Should any person indicate to the Contractor or any employee or agent of Contractor by written or oral communication, course of dealing or otherwise, that such person believes Contractor to be an employee or agent of the Township, Contractor shall use its best efforts to correct such belief. In ordering or accepting delivery of or paying for any goods or services, Contractor shall do so in Contractor's own business.

24. Assumption of Liability. To the fullest extent permitted by law, Contractor assumes liability for all injury to or death of any person or person's including employees of Contractor, any subcontractor of any tier, any supplier or any other person and assumes liability for all damage to property sustained by any person or persons occasioned by or in any way arising out of any work performed pursuant to this Contract.

25. No Waiver of Immunities and/or Privileges by Hanover Township. Nothing herein shall be construed as an express and/or implied waiver of any common law and/or statutory immunities and/or privileges of the Township, and/or its officials, officers, employees, volunteers and/or agents.

26. Village Inspections. Contractor shall be solely responsible for scheduling inspections by the Village of Bartlett Building Department at all required phases of the Project Work as required under the Village of Bartlett Building Code, including but not limited to, prior to any concrete being poured. Failure of Contractor to have said inspection(s) performed in strict compliance with the Bartlett Building Code shall be a material breach of this Agreement. Contractor shall also inform the Township Director of Maintenance, Steve Spejcher, prior to all Village inspections.

27. Miscellaneous.

A. This Agreement supercedes all prior agreements and understandings, both written and oral, of the parties to the subject matter hereof. This Agreement applies to and binds the heirs, successors, executors, administrators and assigns of the parties to this Agreement. Any amendments to this Agreement must be in writing and executed by the Parties.

B. This Agreement may be executed in any number of counterparts, each of which when executed shall be deemed an original and all of which together shall constitute one and the same Agreement.

C. Changes in the number, gender and grammar of terms and phrases herein when necessary to conform this Agreement to the circumstances of the parties hereto shall in all cases, be assumed as though in each case fully expressed therein.

D. This Agreement shall be construed, governed and enforced according to the laws of the State of Illinois, and the exclusive venue for the enforcement of this Agreement and/or litigation between the parties shall be the Circuit Court of Cook County, Illinois.

E. In construing this Agreement, section headings shall be disregarded.

F. Time is of the essence of this Agreement and every provision contained herein.

G. If any clause, phrase, provision or portion of this Agreement or the application thereof, to any person or circumstance, shall be invalid or unenforceable under applicable law, such event shall not affect, impair or render invalid or unenforceable the remainder of this Agreement, nor shall it affect the application of any other clause, phrase, provision or portion hereof to other persons or circumstances.

H. Facsimile signatures shall be sufficient for purposes of executing, negotiating, and finalizing this Agreement.

I. Each of the undersigned signing as an officer or agent on behalf of the respective party to this Agreement warrants that he or she holds such capacity as is specified beneath his or her name and further warrants that he or she is authorized to execute and effectuate this Agreement and that he or she does so voluntarily and in his or her official capacity.

J. Survival of Obligations. Except as otherwise provided, any obligations and duties which by their nature extend beyond the expiration or termination of this Agreement, including, without limitation, Sections pertaining to Indemnity shall survive the expiration of this Agreement.

HANOVER TOWNSHIP:

By: [Signature]
Supervisor

Attest: [Signature]
Clerk

PRECISION CONCRETE AND ASPHALT, INC.:

By: [Signature]
President

Attest: [Signature]
Title: [Signature]