



ORDINANCE NO. 1844-18

AN ORDINANCE AUTHORIZING THE EXECUTION OF A ROAD BOND AGREEMENT  
WITH AQUA ILLINOIS

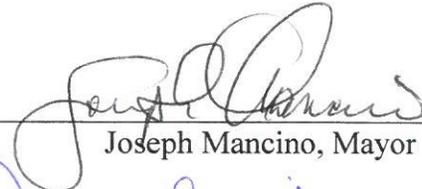
BE IT ORDAINED by the Mayor and Board of Trustees of the Village of Hawthorn Woods, Illinois, that the Chief Operating Officer be, and the same is hereby authorized and directed, to execute an Agreement with Aqua Illinois requiring a road bond be required for damages to Schwerman Road as a result of construction of the water tower. Such Agreement is by and between the Village of Hawthorn Woods and Aqua Illinois, a copy of which is attached hereto as Exhibit "A", and, by this reference made a part hereof.

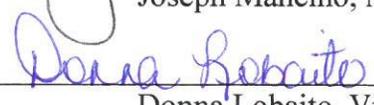
The foregoing Ordinance was adopted on March 26, 2018 by a roll call vote as follows:

AYES: Kaiser, Besik, Rios, Corrigan, DiMaggio, David

NAYS: ⊕

ABSENT AND NOT VOTING: ⊕

APPROVED:   
Joseph Mancino, Mayor

ATTEST:   
Donna Lobaito, Village Clerk

ADOPTED: March 26, 2018

APPROVED: March 26, 2018

## ROAD BOND AGREEMENT

MADE AND ENTERED INTO this 28th day of March, 2018, by and between the VILLAGE OF HAWTHORN WOODS, in the County of Lake and State of Illinois, hereinafter referred to as "VILLAGE",

AND

AQUA ILLINOIS – Northern Division, 316 S. Main Street, Wauconda, Illinois, 60084, hereinafter referred to as "PERMITTEE".

WHEREAS, PERMITTEE is desirous of using Schwerman Road from Fairfield Road to the driveway entrance of the Aqua Water Tower Site (pin #1033104012), for approximately 4600 feet, of which approximately 1100 feet of paved road (hereafter, "PERMITTED ROADS") is under the supervision and control of the VILLAGE and 3500 feet of paved road is under the supervision and control of Fremont Township (hereafter, "PERMITTED ROADS"), for the purpose of HEAVY HAULING operations (hereafter, "HEAVY HAULING") by the PERMITTEE, or by agents, subcontractors, workmen or employees over which he can and shall exercise control, for the purpose of building an elevated water tower.

WHEREAS, the VILLAGE is willing to permit the movement of PERMITTEE'S trucks over the hereinafter described road of the VILLAGE and Fremont Township irrespective of weight upon the following terms and conditions;

WHEREAS, the VILLAGE and Fremont Township will be performing a resurfacing project on Schwerman Road during the time that the PERMITTEE will be utilizing Schwerman Road for construction of the elevated water tower.

NOW, THEREFORE, for and in consideration of the foregoing representation, which the PERMITTEE specifically acknowledges and adopts, and mutual promises hereinafter set forth, the parties hereto, intending to be legally bond hereby, agree for themselves, their successors and assigns, as follows:

1. The VILLAGE will, on the effective date of this Agreement, allow PERMITTEE and its employees, agents, contractors and subcontractors to utilize the above described VILLAGE road and Fremont Township road, for the purposes set forth above and for no other. Exhibit A is attached hereto for informational purposes only and includes an estimate of the typical truck volume and the estimated dates of the truck traffic associated with Operator's planned activity in the VILLAGE.
2. The VILLAGE and PERMITTEE agree to perform an initial inspection of the PERMITTED ROADS noted above twice of which once is prior to commencement of HEAVY HAULING over the same by PERMITTEE and

secondly, after the VILLAGE's and Fremont Township's road resurfacing project is complete. The condition of said roads, as of said dates, will be properly documented by both parties, and said documentation are incorporated in this Agreement by reference and made a part hereof, any defects not noted prior to commencement of hauling shall be deemed to indicate a "good condition" on the roadway.

3. PERMITTEE, at the completion of the operations, shall immediately submit to the VILLAGE a written notice of said completion. As soon as possible, after receipt of such notice, a representative of the VILLAGE, Fremont Township and of PERMITTEE shall make an inspection of the condition of the portion of the PERMITTED ROADS covered by this Agreement. For road use ending in the winter before substantial spring thaw, the VILLAGE and Fremont Township reserves the right to defer inspection and development of a list of necessary repairs until after the substantial spring thaw.
4. At the completion of use of the PERMITTED ROADS or at such time during its use that the condition of the PERMITTED ROADS deteriorate to a point to be dangerous or inconvenient to the traveling public, PERMITTEE shall be liable to pay the entire cost of repairs necessary as a result of its HEAVY HAULING to return said road(s) to the condition it was in at the second initial inspection upon the completion of resurfacing project. The amount of repairs necessary and method of accomplishing the same shall be within the reasonable discretion of the VILLAGE.
5. Notwithstanding of any other provision of this Agreement, PERMITTEE shall at all times utilize the roadway only in a manner which permits unobstructed and safe passage for other members of the traveling public. Should PERMITTEE fail to commence operations to correct dangerous conditions to the PERMITTED ROADS caused by it HEAVY HAULING ("commence" shall include the marking of the road as to where repairs are necessary) as soon as reasonably practical after receiving written notice from the VILLAGE, the VILLAGE shall have the right to either correct such condition itself or alternatively to have the conditions corrected by a third-party contractor and shall bill the reasonable costs of said work to PERMITTEE, and said reasonable costs shall be paid forthwith. The VILLAGE acknowledges that during winter months, PERMITTEE may only be able to make temporary repairs to the roadway in order to keep the road in a passable condition.

6. Upon receiving notice from the VILLAGE of damages to the PERMITTED ROADS caused by its HEAVY HAULING which render the Roads unsafe or substantially inconvenient for passage by ordinary traffic, PERMITTEE must take immediate action to install temporary repairs to said Roads to make the Roads passable by ordinary traffic. For all other damages to the PERMITTED ROADS caused by its HEAVY HAULING, PERMITTEE must commence operations to correct dangerous conditions to the PERMITTED ROADS caused by its HEAVY HAULING ("commence operations" shall include the marking the road as to where repairs are necessary) on or before five (5) days after notice by the VILLAGE. The VILLAGE acknowledges that weather conditions and/or the availability of road repairs during winter months may prevent PERMITTEE from making permanent repairs during such periods so long as PERMITTEE pursues permanent repairs within a reasonable amount of time after such impediments are removed.
7. This Agreement shall become effective upon signing hereof, and shall continue until the construction of the elevated water tower is complete, or terminated in the sole discretion of the VILLAGE due to significant unrepaired damage to the PERMITTED ROADS caused by PERMITTEE's HEAVY HAULING, without liability on the VILLAGE for any early cancellation. The VILLAGE shall provide written notice of such cancellation at which time termination and inspection procedures shall be instituted as set forth above. The VILLAGE shall not sign the agreement until they receive the bond in the amount depicted in the following paragraph 8.
8. PERMITTEE shall provide a bond (irrevocable letter of credit, or other surety sufficient to the VILLAGE), which will be made part of this agreement as Exhibit B, in the amount of \$256,000 (calculated based on the engineer's estimate for the Schwerman Road Improvements project, proportional to the length of road that will be utilized for construction of the elevated water tower as noted above) which shall be held by the VILLAGE as a guarantee to pay for any necessary repairs. The existence or use of the bond shall not relieve PERMITTEE of any responsibility to pay for damages found by the VILLAGE in excess of the bond. This Agreement and rights hereunder shall be contingent upon payment of said bond.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals the day and year first above written intending to be legally bound thereby.

ATTEST:

Donna Lobaito

VILLAGE Clerk

Donna Lobaito

(Print Name)

BY: \_\_\_\_\_

\_\_\_\_\_  
(Print Name)

ATTEST: *Agua Illinois*  
Lisa C. Porter  
Witness *LISA C. Porter*

VILLAGE OF HAWTHORN WOODS

Lake County, Illinois

BY: Pamela O. Newton

Pamela O. Newton

(Print Name)

*Agua Illinois*

PERMITTEE

BY: Colton James

COLTON JAMES  
(Print Name)

**EXHIBIT A**  
**Typical Truck Volume**

**Exhibit A**

**Typical Truck Volume**

**March 2018; various pickup trucks, 3 semi trailers**

**March – April 2018; 10 – 12 Cement trucks for foundation**

**May – July 2018; 5 semi trailers with Steel**

**July – August 2018; 2 box truck for painters**

**March – November 2018: Daily personal vehicles of site workers**

**These quantities are estimates and are based on all vehicles complying with local load limits for roads.**

**EXHIBIT B**

Copy of Surety per paragraph 9

ROAD BOND

**KNOW ALL MEN BY THESE PRESENTS, that we, Aqua Illinois, Inc.**  
316 S. Main Street Wauconda, IL 60084  
**(hereinafter called the Principal), and Travelers Casualty and Surety Company of America**  
One Tower Square, Hartford, CT 06183 **(hereinafter called the Surety),**  
**are held and firmly bound unto Village of Hawthorn Woods and Fremont Township**  
35 Old McHenry Road, Hawthorn Woods, IL 60047  
**(hereinafter called the Obligee), in the full and just sum of Two Hundred Fifty Six Thousand**  
**Dollars and 00/100 (\$ 256,000.00 ) Dollars, lawful money of the**  
**United States, for the payment of which, well and truly to be made, we bind ourselves,**  
**our heirs, administrators, executors, successors and assigns, jointly and severally,**  
**firm by these presents.**

**WHEREAS, the above named Principal has made application and may make further**  
**applications to the Obligee for permission to move or cause to be moved vehicles and/or**  
**equipment of various types over certain of the Obligee's roads as described in the**  
**application or applications, and as a condition precedent to granting such permission,**  
**the Obligee has required the furnishing of a bond.**

**NOW, THEREFORE, the condition of the above obligation is such that if the above**  
**named Principal shall move the vehicles and/or equipment described in any and/or all of**  
**the applications filed by the above named Principal on and after the date of the**  
**execution of this obligation over the Obligee's roads, bridges, and culverts in the**  
**manner designated by and with the permission of said Obligee, and shall well and truly**  
**pay for all damages to said roads, bridges, and culverts, which are and/or may be**  
**caused by the movement of such vehicles and/or equipment by the named Principal or his**  
**authorized agent, over or upon the roads, bridges, and culverts of the Obligee and all**  
**other claims for damages lawfully accruing to or in favor of the Obligee resulting**  
**there from, and any fines or penalties to which the said Principal or his authorized**  
**agent become liable to pay, and shall save the Obligee harmless in and/or from any**  
**and all suits, claims for damages and/or proceedings arising out of the movement of**  
**any of said vehicles and/or equipment over said roads, bridges, and culverts, and**  
**shall observe all terms and conditions of the permission granted to said Principal**  
**on and after this date of this obligation, then this obligation to be void; otherwise**  
**to remain in full force and effect in law.**

**LET IT FURTHER be understood that in no event shall the aggregate liability of**  
**the Surety exceed the penal amount herein stated.**

**IN WITNESS WHEREOF, we have hereunto set our hands and seals this**  
27th day of February, A.D. 2018.

**Witness as to Principal:**

By:   
**Aqua Illinois, Inc.**  
**Principal**  
**Travelers Casualty and Surety Company of America**  
**Surety**

**BY:**   
**Attorney-in-Fact Daniel P. Dunigan**



POWER OF ATTORNEY

Farmington Casualty Company
Fidelity and Guaranty Insurance Company
Fidelity and Guaranty Insurance Underwriters, Inc.
St. Paul Fire and Marine Insurance Company
St. Paul Guardian Insurance Company

St. Paul Mercury Insurance Company
Travelers Casualty and Surety Company
Travelers Casualty and Surety Company of America
United States Fidelity and Guaranty Company

Surety Bond No. 106849339

Principal: Aqua Illinois, Inc.

OR

Project Description: Heavy Hauling Operations - Schwerman Road from Fairfield
Road to the Driveway Entrance of the Aqua Water Tower Site

Obligee: Village of Hawthorn Woods and Fremont Township

KNOW ALL MEN BY THESE PRESENTS: That Farmington Casualty Company, St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company, St. Paul Mercury Insurance Company, Travelers Casualty and Surety Company, Travelers Casualty and Surety Company of America, and United States Fidelity and Guaranty Company, are corporations duly organized under the laws of the State of Connecticut, that Fidelity and Guaranty Insurance Company is a corporation duly organized under the laws of the State of Iowa, and that Fidelity and Guaranty Insurance Underwriters, Inc. is a corporation duly organized under the laws of the State of Wisconsin (herein collectively called the "Companies"), and that the Companies do hereby make, constitute and appoint Daniel P. Dunigan of the City of Paoli, State of PA, their true and lawful Attorney-in-Fact, to sign, execute, seal and acknowledge the surety bond(s) referenced above.

IN WITNESS WHEREOF, the Companies have caused this instrument to be signed and their corporate seals to be hereto affixed, this 24th day of June, 2016.

Farmington Casualty Company
Fidelity and Guaranty Insurance Company
Fidelity and Guaranty Insurance Underwriters, Inc.
St. Paul Fire and Marine Insurance Company
St. Paul Guardian Insurance Company

St. Paul Mercury Insurance Company
Travelers Casualty and Surety Company
Travelers Casualty and Surety Company of America
United States Fidelity and Guaranty Company



State of Connecticut

City of Hartford ss.

By:

[Signature]
Robert L. Raney, Senior Vice President

On this the 24th day of June, 2016, before me personally appeared Robert L. Raney, who acknowledged himself to be the Senior Vice President of Farmington Casualty Company, Fidelity and Guaranty Insurance Company, Fidelity and Guaranty Insurance Underwriters, Inc., St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company, St. Paul Mercury Insurance Company, Travelers Casualty and Surety Company, Travelers Casualty and Surety Company of America, and United States Fidelity and Guaranty Company, and that he, as such, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing on behalf of the corporations by himself as a duly authorized officer.

In Witness Whereof, I hereunto set my hand and official seal.

My Commission expires the 30th day of June, 2021.



[Signature]
Marie C. Tetreault, Notary Public

This Power of Attorney is granted under and by the authority of the following resolutions adopted by the Boards of Directors of Farmington Casualty Company, Fidelity and Guaranty Insurance Company, Fidelity and Guaranty Insurance Underwriters, Inc., St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company, St. Paul Mercury Insurance Company, Travelers Casualty and Surety Company, Travelers Casualty and Surety Company of America, and United States Fidelity and Guaranty Company, which resolutions are now in full force and effect, reading as follows:

**RESOLVED**, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President, any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary may appoint Attorneys-in-Fact and Agents to act for and on behalf of the Company and may give such appointee such authority as his or her certificate of authority may prescribe to sign with the Company's name and seal with the Company's seal bonds, recognizances, contracts of indemnity, and other writings obligatory in the nature of a bond, recognizance, or conditional undertaking, and any of said officers or the Board of Directors at any time may remove any such appointee and revoke the power given him or her; and it is

**FURTHER RESOLVED**, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President may delegate all or any part of the foregoing authority to one or more officers or employees of this Company, provided that each such delegation is in writing and a copy thereof is filed in the office of the Secretary; and it is

**FURTHER RESOLVED**, that any bond, recognizance, contract of indemnity, or writing obligatory in the nature of a bond, recognizance, or conditional undertaking shall be valid and binding upon the Company when (a) signed by the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary and duly attested and sealed with the Company's seal by a Secretary or Assistant Secretary; or (b) duly executed (under seal, if required) by one or more Attorneys-in-Fact and Agents pursuant to the power prescribed in his or her certificate or their certificates of authority or by one or more Company officers pursuant to a written delegation of authority; and it is

**FURTHER RESOLVED**, that the signature of each of the following officers: President, any Executive Vice President, any Senior Vice President, any Vice President, any Assistant Vice President, any Secretary, any Assistant Secretary, and the seal of the Company may be affixed by facsimile to any Power of Attorney or to any certificate relating thereto appointing Resident Vice Presidents, Resident Assistant Secretaries or Attorneys-in-Fact for purposes only of executing and attesting bonds and undertakings and other writings obligatory in the nature thereof, and any such Power of Attorney or certificate bearing such facsimile signature or facsimile seal shall be valid and binding upon the Company and any such power so executed and certified by such facsimile signature and facsimile seal shall be valid and binding on the Company in the future with respect to any bond or understanding to which it is attached.

I, Kevin E. Hughes, the undersigned, Assistant Secretary, of Farmington Casualty Company, Fidelity and Guaranty Insurance Company, Fidelity and Guaranty Insurance Underwriters, Inc., St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company, St. Paul Mercury Insurance Company, Travelers Casualty and Surety Company, Travelers Casualty and Surety Company of America, and United States Fidelity and Guaranty Company, do hereby certify that the above and foregoing is a true and correct copy of the Power of Attorney executed by said Companies, which is in full force and effect and has not been revoked.

**IN TESTIMONY WHEREOF**, I have hereunto set my hand and affixed the seals of said Companies this 27th day of February, 2018



Kevin E. Hughes, Assistant Secretary



*To verify the authenticity of this Power of Attorney, call 1-800-421-3880 or contact us at [www.travelersbond.com](http://www.travelersbond.com). Please refer to the Attorney-In-Fact number, the above-named individuals and the details of the bond to which the power is attached.*