



VILLAGE OF GILBERTS, IL

Request for Proposals Services for Information Technology

Date Posted: 26 February 2024

Due Date: 22 March 2024

The Village of Gilberts is now accepting proposals for comprehensive Information Technology services for all Village departments, including Administration, Finance, Police, and Public Works. Vendors interested in this opportunity shall submit one (1) original physical proposal, as well as an electronic submission. The Village will review submitted proposals in accordance with this RFP. The Village reserves the right to determine, in its sole discretion, whether a proposal is in the best interest of the Village. The Village further reserves the right to reject any or all proposals and to waive any formality, technicality, or irregularities in any proposal.

INTRODUCTION

Intent

It is the intent of the Village of Gilberts (“Village”) to contract with a Vendor or Vendors (“Vendor”) for all necessary labor, expenses and materials to provide information technology (“IT”) support services for the Village of Gilberts as described herein.

Proposal Price

The Village is seeking to move away from an hourly service to a retainer structure. As such, the Vendor shall submit a pricing schedule that outlines an annual service fee (to be billed monthly), after-hours rates, applicable administrative fees, and must indicate how transportation expenses will be billed. The cost for services should take into account on and off-site presence as well as additional after-hours/on-call support services. The Village’s normal business hours are from 8:30 a.m. to 4:30 p.m., Monday through Friday, though the Village may require occasional services outside of these hours to complete maintenance activities during off-business hours. As such, the Village reserves the right to request additional hours of work as needed outside of normal business hours. The Vendor shall list all, if any, services which would not be covered in the proposal price.

OVERVIEW

Background

The Village of Gilberts was incorporated in 1890 and continues to grow with vision as more people seek a smaller residential environment, with a current population of roughly 8,300. However, Gilberts is also seeing larger commercial and industrial developments, and must keep up with faster-paced commercial trends. The Village is located within Kane County, roughly 40 miles northwest from Downtown Chicago. The Village is non-home rule.

Current IT Environment

The Village has contracted IT services with its current vendor since November 2013. The last formal agreement was approved in 2017, after which expiration date, the Village has continued with this vendor on a T&M (time and materials) basis.

In this capacity, this vendor has acted as the primary technician for all IT functions in the Village. This has included, but is not limited to, providing general IT support as needed, gauging the source of various IT issues, answering customary calls from staff, assisting with work-station setup as needed, and monitoring general security systems with the Village’s IT infrastructure.

The Village is also under lease agreement with Marco Technologies LLC for ongoing monthly service for four (4) copiers. This agreement was executed in 2022 and is a thirty-six (36) month lease, which includes parts, labor, and service for the copiers, other than network troubleshooting.

Finally, the Village has utilized B2B Technologies for telecommunication services since 2022. This service agreement is on an annual basis, and covers all logistics regarding office telephone integration.

Current Network Infrastructure

	Village Hall	Police Department	Public Works/Finance
Servers	0	0	2
Internet Connection	At&t Modem	Fiber Connection to Village Hall	Fiber Connection to Village Hall Copper Connection 4 Firetide Mesh Radios
Networking	2 Hewlett Packard Switches 1 Cisco Firewall	2 Hewlett Packard Switches	4 Hewlett Packard Switches 1 Barracuda Email Security Gateway 1 Windows Server 1 Dell/EMC Poweredge Server

Enterprise Resource Planning (ERP)

Gilberts currently utilizes BS&A as its primary ERP for most relevant Village operations.

SCOPE OF WORK

Background

The Village is seeking a vendor to provide all-encompassing IT services. The Vendor will primarily work with the Village Administrator's office, which is responsible for overseeing the Village's IT functions. The expected general functions are broken down below, but the scope of work in this document does not constitute an exhaustive or comprehensive list of duties for which the Vendor will be responsible.

Desktop Support

The Vendor will be responsible for offering basic support services for everyday desktop applications. This includes installing or assisting with installation of PCs, laptops, desktop applications, printers, and various softwares. The Vendor will also be responsible for diagnosing and solving various desktop application issues, correcting hardware problems, and when necessary, performing computer troubleshooting.

Server and Workstation Support

The Vendor will be responsible for managing and maintaining all computer systems, including applications, database, email, web, and other servers, and relevant hardware, software, operating systems, and any other devices/applications necessary for quality performance, security, and

reliability of the various Village functions. The Vendor will manage all timely changes, system upgrades, needed patches, user logins/other security measures associated with individual users, and coordinate all needed repairs and equipment replacements. The Vendor will also manage any annual software subscriptions, working with the Village to setup a process to notify the Village in a timely manner of any due renewals, and executing those renewals when the Village authorizes as such.

Network Administration Services

The Vendor will be responsible for maintaining all network systems, including firewalls, switches, routers, and various security devices. The Vendor will perform needed installation and maintenance of copiers and printers, as well as troubleshoot any issues associated with these devices. The Vendor will perform standard, routine analyses of network systems, along with any needed upgrades to the network, along with cabling as needed.

Security/Data Backups

The Vendor will ensure system-wide security of all Village devices and servers. This will be done by maintaining virus protection programs on Village servers, emails, and all Village devices. The Vendor will regularly monitor Village systems and perform security audits as requested, or as the Vendor deems necessary, and will notify the Village of possible security breaches. The Vendor will also be responsible for developing and maintaining a system to enable secure remote access, as well as provide administrative, setup, and support for remote access as requested by Village employees.

The Vendor will be responsible for ensuring all Village data is properly stored, backed up, and available for recovery as needed.

Being a public entity, the Village houses confidential and sensitive information, and the Vendor will have access to much of this information. The Vendor will ensure best practices for data protection and the security of such sensitive data. It is expected that the Vendor treats confidential and/or sensitive information as such, and it remains confidential. If there is a question as to whether or not some information is confidential, the Village shall make that determination in its entirety. Any breach of this section, unauthorized dissemination of such information, or unauthorized access to such information, shall be grounds for termination of this agreement.

The Vendor will also be responsible for advising and providing a plan to Village to transition data storage to a cloud-based system.

Strategic Planning

The Vendor will be responsible for advising the Village on a variety of long-term planning initiatives for IT services. This includes, but is not limited to, the following projects and duties:

- Supporting Village staff with creation of a strategic IT plan
- Identification of problem areas and shortfalls in IT systems to Village staff
- Creation of a scheduled maintenance plan for all Village equipment

- Creation of a scheduled replacement plan for all Village equipment
- Offering assistance to Village staff on IT budget
- Making recommendations for future IT needs

Miscellaneous Projects/Technology

The Village may undertake various special technology projects with needed assistance from the Vendor from time to time. These may include, but are not limited to, efforts to increase technological efficiencies and/or effectiveness, relocate Village operations to new facilities, integrate necessary changes per federal and state mandates, and upgrade systems that assist staff. This may also include various projects such as assisting as needed with FOIA requests, as well as other projects especially pertinent to a municipality.

Background Check

As the Vendor will have access to highly sensitive information and data, the Village reserves the right to conduct a background check on any employee of the Vendor who may have direct access to this information. The Village also reserves the right to prohibit any employee with the Vendor from accessing this information based on the results of a background check.

Requirements and Expectations

The Village operates with multiple full-time and part-time employees, with normal business hours from 8:30 a.m. to 4:30 p.m., Monday through Friday. The Vendor will be required to perform all necessary request services during the Village's normal business hours, unless specific special projects are scheduled outside of these times. The Vendor will follow up to any request with a receipt of acknowledgement within 30 minutes of the request, and an initial response to the request within two (2) hours of the request.

Notwithstanding the above, the Vendor will perform all necessary services that may disrupt the normal functions of multiple employees outside of the normal business hours. This may include server maintenance issues, network rebooting/issues, etc. If the Vendor cannot satisfy this requirement, the Vendor will work with the Village and any work that may cause disruption in normal business must be expressly approved by the Village.

The Vendor will also be responsible for the active monitoring of the Village's networks, servers, and general systems. It is expected that the Vendor will have the capability to detect if/when an issue arises with these systems, and shall proactively work to resolve these issues with as little disruption to Village employees as possible.

Due to the nature of some Village departments, namely the Police and Public Works departments, some requests to the Vendor may come outside of the Village's normal business hours. These would be relatively uncommon, but the Vendor will be required to accommodate those that come in after hours. In these instances, the Vendor will abide by the normal request response times listed above.

AGREEMENT TERM

The term of the agreement between the Village and the Vendor shall be for a period of one (1) year, with the option to extend the agreement by additional one (1) year terms if both the Village and the Vendor agree. Upon any extension of the agreement, the Vendor may only increase the price of services by the lesser of 3% or CPI. The Village may choose to terminate the agreement with or without cause and without penalty upon prior written notice to the Vendor of at least 30 days. The Vendor may choose to terminate the agreement with or without cause and without penalty, but only upon prior written notice to the Village of at least 180 days. If the Vendor terminates the agreement, the Vendor will assist the Village with transferring or otherwise migrating Village data possessed by the Vendor to the Village's new vendor, without charge.

INSURANCE AND INDEMNIFICATION

Insurance

Vendor shall procure and maintain for the duration of this Agreement, insurance against claims for injuries to persons or damages to property, which may arise from or in connection with the performance of Services hereunder by the Vendor, Vendor's agents, representatives, employees or subcontractors. The cost of such insurance shall be borne by the Vendor. Vendor shall submit a Certificate of Insurance meeting the requirements herein prior to performing the Services.

1. Minimum Scope of Insurance.

Coverage shall be at least as broad as:

- i. Professional Liability Insurance.
- ii. Broad Form Comprehensive General Liability, or the most recent revision.
- iii. Worker's Compensation insurance as required by statute and Employers Liability insurance.

Minimum Limits of Insurance.

Provider shall maintain limits no less than:

- a. Professional Liability Insurance: Vendor shall obtain and maintain, at its own expense, Vendor's professional liability insurance in the amount of no less than Five Hundred Thousand Dollars (\$500,000.00) (including a broad form contractual liability coverage with all coverage retroactive to the earlier date of this Agreement of the commencement of Vendor's services in relation to the project) for each claim with respect to negligent acts, errors and omissions in connection with services to be provided under the Agreement with a deductible not to exceed \$50,000 without prior written approval. Said coverage shall be maintained for a period of three (3) years after the date of final payment.

- b. General Liability: \$1,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this location where services are performed or the general aggregate limit shall be twice the required occurrence limit.
- c. Workers' Compensation and Employers Liability: Workers' Compensation limits as required by statute and Employers Liability limits of \$1,000,000 per accident and \$1,000,000 per disease.

2. Deductibles and Self-Insured Retentions.

Any deductible or self-insured retentions must be declared to, and approved by, the Village. At the option of the Village, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the Village, its officers, elected and appointed officials, employees, volunteers, and agents; or the Vendor shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

3. Other Insurance Provisions.

The policies are to contain, or be endorsed to contain, the following provisions in the General Liability Coverage:

- a. The Village, its officers, elected and appointed officials, employees, volunteers and agents are to be covered as additional insureds as respects: liability arising out of premises owned, occupied, or used by the Vendor and/or arising out of activities performed on or on behalf of the Vendor. The coverage shall contain no special limitations on the scope of protection afforded to the Village, its officers, elected and appointed officials, employees, volunteers, or agents.
- b. The Vendor's insurance coverage shall be primary insurance as respects the Village, its officers, elected and appointed officials, employees, volunteers, and agents. Any insurance or self-insurance maintained by the Village, its officer, elected and appointed officials, employees, volunteers, or agents shall be excess of the Vendor's insurance and shall not contribute with it.
- c. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the Village, its officers, elected and appointed officials, employees, volunteers, or agents.
- d. Coverage shall state that the Vendor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

4. **Worker's Compensation and Employers Liability Coverage.**
The insurer shall agree to waive all rights of subrogation against the Village, its officers, elected and appointed officials, employees, volunteers, and agents for losses arising from the use of the premises.
5. **All Coverages.**
Each insurance policy required by this clause shall not be suspended, voided, canceled, reduced in coverage or in limits except after thirty (30) days prior written notice by certified mail, return receipt required, has been given to the Village.
6. **Acceptability of Insurers.**
Insurance is to be placed with insurers licensed to do business in Illinois.
7. **Verification of Coverage.**
Vendor shall furnish the Village with certificates of insurance and with original endorsements if applicable effecting coverage required by this clause. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

All certificates and endorsements are to be received and approved by the Village before the premises are occupied. The Village reserves the right to require complete certified copies of all required policies, at any time.

Indemnification

To the fullest extent permitted by law, the Vendor shall indemnify, defend and hold harmless the Village of Gilberts and its officers, officials, employees, volunteers and agents from and against all claims, damages, losses, investigations, and expenses, including, without limitation, legal fees (attorney's and paralegals' fees, court costs, and costs of appeals), arising out of or resulting, or allegedly arising out of or resulting from, from the Vendor's services performed for the Village. Such obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described in this Paragraph. Vendor shall similarly protect, indemnify, defend and hold and save harmless the Village of Gilberts, its officers, officials, employees, volunteers and agents against and from any and all claims, costs, causes, actions and expenses including but not limited to legal fees, incurred by reason of Vendor's breach of any of its obligations under, or Bidder's default of, any provision of the Agreement.

FORMAT/SUBMISSION REQUIREMENTS

All applicants shall submit proposals with a minimum of the following required portions:

1. **Company Profile** – A detailed description of the company. This should also include any prevalent qualifications the company has that sets it apart from competitors.
2. **Approach and Methodology** – A detailed description of how the company plans on executing the scope of work listed in this RFP. The applicant will describe their approach

and methodology for all duties listed here, but will specifically focus on their methodology for responding to requests for service, and their approach to active monitoring.

3. **Staffing** – Identification of all the relevant staff members that will be directly responsible for executing the duties for the Village. The Vendor will identify specific experience with relevant software and hardware, as well as professional certifications that qualify them for this role.
4. **Pricing** – A standard schedule for all applicable fees to be charged for services to the Village. The applicant will include an annual retainer fee, along with any rates for work falling outside of the annual retainer fee, including but not limited to, after-hours rates and rates for special projects. The applicant will also explain how transportation costs will be billed, or if transportation costs are covered in the annual fee. This will be completed on the attached Proposal Price Table.
5. **References** – A list of at least five (5) professional clients, including contact information, where the applicant has provided similar work to that listed in this RFP. Preference will be given for those applicants with municipal references and detailed experience working with municipalities.
6. **Material Litigation** – A statement on any and all material litigations, arbitrations, or bankruptcy proceedings in which the applicant is involved or named, either directly or indirectly, within the past five (5) years.
7. **Compliance with General Terms and Conditions** – As a point of information, the successful contractor will be required to meet, at a minimum, the following conditions for a contract award:
 - a. EEOC statement
 - b. Certificate of Insurance for Liability
 - c. Workman's Compensation Insurance
Sexual Harassment Policy

PROPOSAL EVALUATION CRITERIA

The Village is seeking a qualified vendor that has the necessary experience, resources, and staffing to successfully perform the listed scope of work. In making the final selection, the Village will consider the following factors (listed in no particular order):

- Prior experience performing similar work (namely in a municipal or comparable setting).
- Professional skills, qualifications, and certifications that will help to fulfill requisite duties.
- References from prior or current clients.
- Village's prior experience with Vendor, if applicable.
- The applicable fee schedule.

Preference may be given to those applicants whose technical qualifications and certifications are (1) greater in number; (2) higher quality; and/or (3) more relevant, as determined by the Village in its sole discretion. These may include, but are not limited to:

- Knowledge of Microsoft Office Suite, Office 365/Exchange Server, SQL Server, Network Firewalls, and Intrusion Prevention.
- Microsoft or other technological certifications relevant to the aforementioned list of duties
- Degrees in Information Technology or related field.
- Experience providing first line help desk support or relevant experience.
- Ability to manage work load personnel; previous supervisory/leadership experience is required.
- Ability to integrate & troubleshoot various types of equipment – standard office equipment, servers, workstations, IP Telephony, network infrastructure, WAN/LAN, email/network security, etc.

The Village may (1) accept the proposal that is, in its judgment, the best and most favorable to the interests of the Village and to the public, regardless of cost; (2) reject any proposal, including the lowest priced proposal; (3) reject any and all proposals; or (4) waive irregularities and informalities in any proposal submitted or in the request for proposals process. The waiver of any prior defect or informality shall not be considered a waiver of any future or similar defect or informality. Vendors should not rely on, or anticipate, any waivers in submitting their proposal.

TIMELINE

The following diagram presents the tentative schedule of events the Village plans on utilizing during this RFP. The Village reserves the right to change this timeline as needed.

The Village will host a pre-proposal meeting before RFP submittals are due. This meeting is optional, and is meant to offer an opportunity for potential vendors to ask and/or clarify any questions they may have about the RFP. This meeting is intended to focus on the RFP process, and, if time permits, a viewing of the Village's facilities. Attendance at this meeting will close at 1:15 p.m. Those who arrive after this time will **not** be permitted to enter the meeting. This meeting will take place at the Village Hall, 87 Galligan Rd, Gilberts, IL 60136 in the Board Room.

Furthermore, the Village will publicly open and read the proposals on 22 March 2024, the same day the proposals are due, at 9:00 A.M at the Village Hall, 87 Galligan Rd, Gilberts, IL 60136 in the Board Room. Proposals delivered after the deadline will not be accepted. The Village reserves the right to conduct interviews as it deems fit.

Event	Date
Village issues RFP	26 February 2024
Optional Pre-Proposal Meeting	8 March 2024, 1:00 P.M. – 3:00 P.M.
RFP Due Date and Public Opening	22 March 2024, 9:00 A.M.
Recommendation to Village Board / Decision	TBD

SERVICES AGREEMENT

The vendor selected by the Village must execute an Agreement for IT Services with the Village substantially in the form included at the end of this RFP.

SUBMITTAL INFORMATION

Applicants may submit their proposals via email to manderson@villageofgilberts.com. For physical submittals, proposals can be dropped off or mailed and addressed to:

Village of Gilberts
Attention: Mitchell Anderson
87 Galligan Rd.
Gilberts, IL 60136

PROPOSAL PRICE TABLE

ANNUAL FEE
AFTER-HOUR RATE
SERVICES NOT INCLUDED IN SCOPE OF SERVICES
ADDITIONAL NOTES ON PRICING

TEMPLATE AGREEMENT

INFORMATION TECHNOLOGY PROFESSIONAL SERVICES AGREEMENT

This Information Technology Professional Services Agreement (“**Agreement**”) is made and entered into as of the ___ day of _____, 2024 by and between the Village of Gilbert (“**Client**” or “**Village**”), an Illinois municipality with its offices located at 87 Galligan Road, Gilberts, Illinois 60136, and _____ (“**Service Provider**”), an [INSERT STATE] corporation with its principal place of business located at _____. (For convenience, the Client and Service Provider may be referred to individually as “**Party**” and collectively as “**Parties**.”)

NOW THEREFORE, in consideration of the mutual covenants, promises, and agreements set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby mutually acknowledged, the Village and the Provider agree as follows:

1. **Services**

Scope of Services. The Client is engaging the Service Provider to provide the Information Technology (“IT”) services (“Services”) specified in the Scope of Services and Service Provider’s Proposal listed in **Exhibit A**, which is attached hereto and made a part hereof, pursuant to the terms and conditions of this Agreement. The Service Provider represents it is financially solvent, has the necessary financial resources, and is sufficiently experienced and competent to perform and complete the Services in accordance with the standards of practice, care, and diligence practiced by recognized companies or firms performing services of a similar nature in existence at the time of performance. The representations and certifications expressed are in addition to any other representations and certifications expressed in this Agreement, or expressed or implied by law, which are reserved to the Village.

2. **Compensation**

2.1 **Pricing.** In consideration for Service Provider’s performance of the Services, the Client will pay Service Provider pursuant to the Schedule of Prices set forth in **Exhibit B**, which is attached hereto and made a part hereof. The Schedule of Prices shall include an annual retainer fee for Service Provider’s Services, in addition to general fee rates for Services falling outside of the annual retainer fee, including, but not limited to, after-hours rates and rates for special projects.

2.2 **Invoicing.** Service Provider shall submit invoices to the Client for all Services monthly. The invoices shall be in a Client- approved and itemized format for those portions of the Services performed and completed by the Service Provider. The amount billed in any such invoice shall be based on the method of payment set forth in Exhibit B. The Client shall pay to the Service Provider the amount billed pursuant to the Illinois Local Government Prompt Payment Act (50 ILCS 505/1 et seq.)

2.3 **Records.** The Service Provider shall maintain records showing actual time devoted and costs incurred and shall permit the authorized representative of the Client to inspect and audit all data and records of the Service Provider for Services performed under the Agreement. The records shall be made available to the Client at reasonable times during the Agreement period, and for three years after the termination of the Agreement.

2.4 **Additional Services.** The Service Provider shall not perform or charge the Client for any services outside the scope of this Agreement without the express written authorization of the Client. The Client, in its sole discretion, will determine what services fall outside the scope of this Agreement.

3. **Non Competition and Non Solicitation**

Unless otherwise agreed to between the Parties, each shall not solicit the employment of the other's employees, whether directly or indirectly, as an employee, contractor or consultant, during the period of the Agreement and for a period of one year after its expiration.

4. **Confidentiality:**

4.1 **Definitions.** The term "Confidential Information" shall mean information in the possession or under the control of the Village relating to the technical, business or corporate affairs of the Village; Village property; user information, including, without limitation, any information pertaining to usage of the Village's computer system, including and without limitation, any information obtained from server logs or other records of electronic or machine readable form; and the existence of, and terms and conditions of, this Agreement. Village Confidential Information shall not include information that can be demonstrated: (i) to have been rightfully in the possession of the Service Provider from a source other than the Village prior to the time of disclosure of said information to the Service Provider under this Agreement ("Time of Disclosure"); (ii) becomes publicly known through no fault of Service Provider; (iii) to have been in the public domain prior to the Time of Disclosure; (iv) to have become part of the public domain after the Time of Disclosure by a publication or by any other means except an unauthorized act or omission or breach of this Agreement on the part of the Service Provider or the Village; or (v) to have been supplied to the Service Provider after the Time of Disclosure without restriction by a third party who is under no obligation to the Village to maintain such information in confidence.

4.2 **No Disclosure of Confidential Information by Service Provider.** The Service Provider acknowledges that it shall, in performing the Services for the Village under this Agreement, have access to or be directly or indirectly exposed to Confidential Information. The Service Provider shall hold confidential all Confidential Information and shall not disclose or use such Confidential Information without express prior written consent of the Village. The Service Provider shall use reasonable measures, at least as strict as those the Service Provider uses to protect its own confidential information. Such measures shall include, without limitation, requiring employees and subcontractors of the Service Provider to execute a non-disclosure agreement before obtaining access to Confidential Information. Any such agreement shall also name the Village as a third party beneficiary.

4.3 **Agreement Subject to Disclosure Under Illinois Freedom of Information Act.** The Parties understand and acknowledge that this Agreement is a "public record" as defined in the Illinois Freedom of Information Act ("FOIA"), 5 ILCS 140/1 et seq., that is subject to disclosure in response to a request for records under FOIA.

5. **Term**

5.1 **Term.** The term of this Agreement shall be for a period of one (1) year from the date the last Party executed the Agreement. The Parties may elect to renew the Agreement for two (2) additional 1-year terms, upon terms and conditions agreed to by the Parties in writing.

5.2 **Time of Performance.** The Service Provider shall commence the Services immediately upon receipt of written notice from the Village that this Agreement has been fully executed by the Parties. The Service Provider shall diligently and continuously perform the Services until the completion of the Services, or until the Agreement is terminated pursuant to the provisions of this Agreement.

6. **Termination**

6.1 **Termination for Convenience.** Notwithstanding any other provision in this Agreement, the Client may terminate the Agreement, or any renewals thereof, for any reason or no reason, upon providing the Service Provider at least thirty (30) days prior written notice, unless the Agreement is sooner terminated by the Client because of the Service Provider's material breach of the Agreement. In the event this Agreement is terminated by the Client for convenience, the Service Provider will only be paid for Services actually performed and reimbursable expenses actually incurred, if any, prior to the termination date. The Service Provider may terminate the Agreement, but only upon providing at least one hundred and eighty (180) days prior written notice to the Client. If the Service Provider terminates the Agreement for any reason, the Service Provider will assist the Client with transferring or otherwise migrating Client data possessed by the Service Provider to the Client's new vendor, without charge.

6.2 **Termination for Material Breach.** Either Party may terminate this Agreement for cause upon written notice to the other following a material breach of a material provision of this Agreement by such other Party if the breaching Party does not cure such breach within twenty (20) calendar days of receipt of written notice of such breach from the non-breaching Party. In the event that this Agreement is so terminated, the Service Provider shall be paid for Services actually performed and reimbursable expenses actually incurred, if any, prior to termination.

6.3 **Default.** If the Service Provider has failed or refused to perform, or has delayed in the performance of, the Services with diligence at a rate that assures completion of the Services in full compliance with the requirements of this Agreement, or has otherwise failed, refused, or delayed to perform or satisfy the Services or any other requirement of this Agreement ("Event of Default"), and fails to cure any such Event of Default within fourteen (14) calendar days after the Service Provider's receipt of written notice of such Event of Default from the Client, then the Client shall have the right, without prejudice to any other remedies provided by law or equity, to pursue any one or more of the following remedies:

1. **Cure by Service Provider.** The Client may require the Service Provider, within a reasonable time, to complete or correct all or any part of the Services that are the subject of the Event of Default; and to take any or all other action necessary to bring the Service Provider and the Services into compliance with this Agreement.

2. **Termination of Agreement by Village.** The Client may terminate this Agreement without liability for further payment of amounts due or to become due under this Agreement.

3. **Withholding of Payment by Village.** The Client may withhold from any payment, whether or not previously approved, or may recover from the Service Provider, any and all costs, including reasonable attorneys' fees and administrative expenses, incurred by the Client as the result of any Event of Default by the Service Provider or as a result of actions taken by the Client in response to any Event of Default by the Service Provider.

7. **Insurance**

7.1 Service Provider shall, at its sole cost and expense, at all times during the term of this Agreement maintain insurance of the following character:

1. General comprehensive public liability insurance (inclusive of umbrella coverage) against claims for bodily injury, death, or property damage with such insurance to afford protection of not less than \$5,000,000 with respect to bodily injury or death to all persons in any one accident, and not less than the replacement value with respect to property damage in any one occurrence, subject to inflationary increases as required by Client at Client's reasonable discretion in view of what is customary in the local market, or such other amounts in excess of the amounts set forth above as Client shall reasonably request.

2. Commercial umbrella liability insurance with a limit of not less than \$1,000,000 each accident subject to inflationary increases as required by Client or such other amounts in excess of the amounts set forth above as Client shall reasonably request.

3. Workers compensation and employers liability insurance not less than \$1,000,000 each accident for bodily injury by accident or \$1,000,000 each employee for bodily injury by disease subject to inflationary increases as required by Client or such other amounts in excess of the amounts set forth above as Client shall reasonably request.

4. Cyber Risk Insurance: Subject to the limit of at least \$1,000,000 per claim, minimum of at least \$2,000,000 in the aggregate, to be maintained for the term of the Agreement and three years following its termination, to respond to privacy and network security liability claims including, but not limited to the following, and arising directly or indirectly from Service Provider's failure to carry out its obligations under the Agreement, or the negligent or intentional wrongful act, error or omission of Service Provider, its employees or agents, or third parties not associated with Client to whom Service Provider has given access to the data center premises or systems:

i. Liability arising from theft, dissemination, and/or use of Client's Confidential Information, including, but not limited to, bank, credit card account, and personally identifiable information such as name, address, social security numbers, etc., regardless of how the information is stored or transmitted.

ii. Network security liability arising from (i) the unauthorized access to, use of, or

tampering with computer systems, including hacker attacks; or (ii) the inability of an authorized third party to gain access to supplier systems and/or Client's data, including denial of service, unless caused by a mechanical or electrical failure or acts of God.

iii. Liability arising from the introduction of a computer virus into, or otherwise causing damage to, Client's or third person's computer, computer system, network, or similar computer-related property and the data, software, and programs thereon.

iv. Crisis-management expenses (i.e., notification, public relations, reputation damage, forensics, etc.) for a data breach.

The above policies shall provide a waiver of subrogation. Client its elected and appointed officials, officers , employees agents and volunteers shall be included as additional insured with respect to liability arising out of the goods, services and activities performed by or on behalf of Service Provider.

5. Professional Liability for IT Technology, including Cyber Risk (Claims-Made): \$1,000,000 each claim/loss \$2,000,000 aggregate for contracts under \$500,000. (For contracts over \$500,000, \$5,000,000 each claim/loss \$5,000,000 aggregate.

The policy shall cover professional misconduct or lack of ordinary skill for persons providing the services to be provided by or on behalf of Service Provider under the Agreement.

Service Provider warrants that any retroactive date under the policy shall precede the effective date of the Agreement; and that either continuous coverage will be maintained or an extended discovery period will be exercised for a period of three (3) years beginning on the last day of the Agreement term. The insurance should provide coverage for the same risks identified above for cyber risk insurance.

7.2 Such insurance shall be written by companies of recognized financial standing which are "A-" rated or better by a national rating agency and are legally qualified to issue such insurance in the State of Illinois, and Service Provider shall provide Client with certificates of insurance, naming as the insured parties thereunder, Client, or its assigns, and Service Provider, as their interests may appear. Such insurance may be obtained by Service Provider by endorsement on its blanket insurance policies, provided that (a) such blanket policies satisfy the requirements specified herein and (b) Client shall be furnished with the certificate of the insurer to the effect that (c) the amount of insurance is not less than the amount required by this Section. Client shall not be required to prosecute any claim against any insurer or to contest any settlement proposed by any insurer, provided that Service Provider may, at its cost and expense, prosecute any such claim or contest any such settlement, and in such event Service Provider may bring any such prosecution or contest in the name of Client, Service Provider, or both, and Client shall cooperate with Service Provider and will join therein at Service Provider's written request upon receipt by Client of an indemnity from Service Provider against all costs, liabilities, and expenses in connection with such cooperation, prosecution, or contest.

CGL insurance shall be written on Insurance Services Office (ISO) occurrence form CG 00 01 10 01, and shall cover liability arising from premises, operations, independent contractors, 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).

Client shall be included as an insured under the CGL, using ISO additional insured endorsement CG 20 11 or a substitute providing equivalent coverage, and under the commercial umbrella, if any. This insurance shall apply as primary insurance with respect to any other insurance or self-insurance afforded to Client. Any insurance or self-insurance maintained by Client shall be excess of Service Provider's insurance and shall not contribute with it.

If Client have not been included as an insured under the CGL using ISO additional insured endorsement CG 20 11 under the Commercial General and Umbrella Liability Insurance required in this Agreement, Service Provider waives all rights against Client and their officers, officials, employees, volunteers and agents for recovery of damages arising out of or incident to Service Provider's performance under this Agreement. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of Client for all activities of the Service Provider, its employees, agents and subcontractors.

7.3 Service Provider shall deliver to Client promptly after the execution and delivery of this Agreement the original or duplicate policies or certificates of insurers satisfactory to Client evidencing all the insurance which is then required to be maintained by Service Provider hereunder, and Service Provider shall, within thirty (30) days prior to the expiration of any such insurance, deliver other original or duplicate policies or other certificates of the insurers evidencing the renewal of such insurance. Should Service Provider fail to effect, maintain, or renew any insurance provided for herein, or to pay the premium therefor, or to deliver to Client any of such policies or certificates, Client, at their option, but without obligation so to do, may procure such insurance, and any sums expended by it to procure such insurance shall be reduced from the amount owed for services by Client under this Agreement. Such insurance policy(ies) shall contain a provision that such policy(ies) shall not be canceled or reduced in scope without thirty (30) days prior written notice to Client.

8. **Indemnification**

The Service Provider shall, without regard to the availability or unavailability of any insurance, either of the Village or the Service Provider, indemnify, save harmless, and defend the Village, and its officials, employees, agents, and attorneys against any and all lawsuits, claims, demands, damages, liabilities, losses, and expenses, including attorneys' fees and administrative expenses, that arise, or may be alleged to have arisen, out of or in connection with, the Service Provider's performance of, or failure to perform, the Services or any part thereof, whether or not due or claimed to be due in whole or in part to the active, passive, or concurrent negligence or fault of the Service Provider, except to the extent caused by the sole negligence of the Village. The Service Providers maximum liability for any claimed damages shall not exceed the terms of the policy of insurance carried by the Service Provider as required under the terms of this Agreement.

9. **Warranty**

The Service Provider warrants that the Services shall be performed in accordance with the highest standards of professional practice, care, and diligence practiced by recognized information technology service provider or firms in performing services of a similar nature in existence at the time of performing the Services, The warranty expressed shall be in addition to any other warranties expressed in this Agreement, or expressed or implied by law, which are hereby reserved unto the Village.

10. **General**

10.1 **Relationship of the Parties.** The Service Provider shall act as an independent contractor in providing and performing the Services. Nothing in, nor done pursuant to, this Agreement shall be construed (i) to create the relationship of principal and agent, employer and employee, partners, or joint ventures between the Village and Service Provider; or (ii) to create any relationship between the Village and any subcontractor of the Service Provider.

10.2 **Third-Party Beneficiary.** No claim as a third-party beneficiary under this Agreement by any person, firm, or corporation other than the Service Provider shall be made or be valid against the Village.

10.3 **Amendment.** No amendment or modification to this Agreement shall be effective unless and until such amendment or modification is executed in writing by both Parties.

10.4 **Assignment.** This Agreement may not be assigned by the Service Provider without the prior written consent of the Village, which the Village may elect to withhold in its sole discretion.

10.5 **Waiver.** No waiver of any provision of this Agreement shall be deemed to or constitute a waiver of any other provision of this Agreement (whether or not similar) nor shall any such waiver be deemed to or constitute a continuing waiver unless otherwise expressly provided in this Agreement.

10.6 **No Additional Obligation.** The Parties acknowledge and agree that the Village is under no obligation under this Agreement or otherwise to negotiate or enter into any other or additional contracts or agreements with the Service Provider or with any vendor solicited or recommended by the Service Provider.

10.7 **Mutual Cooperation.** The Village agrees to cooperate with the Service Provider in the performance of the Services, including meeting with the Service Provider and providing the Service Provider with such confidential and non-confidential information that the Village may have that may be relevant and helpful to the Service Provider's performance of the Services. The Service Provider agrees to cooperate with the Village in the performance of the Services to complete the Work and with any other Service Providers engaged by the Village.

10.8 **Governing Law and Venue.** This Agreement shall be governed and interpreted

according to the laws of the State of Illinois. Any action arising under this Agreement must be brought exclusively in the Circuit Court of Kane County.

10.9 Entire Agreement. This Agreement constitutes the entire agreement between the Parties and supersedes any and all previous or contemporaneous oral or written agreements and negotiations between the Village and the Service Provider with respect to the subject matter of this Agreement.

10.10 Binding Effect. The terms of this Agreement shall bind and inure to the benefit of the Parties hereto and their agents, successors, and assigns.

10.11 Severability. If any term, covenant, condition, or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions shall remain in full force and effect and shall in no way be affected, impaired or invalidated, to the fullest extent permitted by law.

10.12 Compliance with Laws. Service Provider shall give all notices, pay all fees, and take all other action that may be necessary to ensure that the Services are provided, performed, and completed in accordance with all required governmental permits, licenses, or other approvals and authorizations that may be required in connection with providing, performing, and completing the Services, and with all applicable statutes, ordinances, rules, and regulations, including without limitation the Fair Labor Standards Act; any statutes regarding qualification to do business; any statutes prohibiting discrimination because of, or requiring affirmative action based on, race, creed, color, national origin, age, sex, or other prohibited classification, including, without limitation, the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101 et seq., and the Illinois Human Rights Act, 775 ILCS 5/1-101 et seq. Service Provider shall be solely liable for any fines or civil penalties that are imposed by any governmental or quasi-governmental agency or body that may arise, or be alleged to have arisen, out of or in connection with Service Provider's, or its subcontractors', performance of, or failure to perform, the Services or any part thereof. Every provision of law required by law to be inserted into this Agreement shall be deemed to be inserted herein.

10.13 Intellectual Property. The Service Provider acknowledges and agrees that all trademarks, service marks, logos, tradenames, and images ("Village Materials") provided by the Village to the Service Provider for use in performing the Services created by Service Provider are the sole and exclusive property of the Village. The Service Provider acknowledges that this Agreement is not a license to use Village Materials except as needed to perform the Services hereunder. If applicable, to the extent the Service Provider has agreed to obtain and/or license Third-Party Materials on behalf of the Village, the Service Provider shall obtain a license for the Village to use the Third-Party Materials as part of the Services for the specified purpose. "Third-Party Materials" shall include, but are not limited to, computer software, script or programming code or other materials owned by third parties and/or any software available from third parties, that is licensed by Service Provider for the benefit of the Village. It is expressly understood that, excluding the Village Materials and Third-Party Materials, the Village and the Service Provider may use or share in any improvements or modifications incorporated into any computer software (in object code and source code form), script or programming code used or developed by the Service Provider in providing Services hereunder.

10.14 **Ownership.** Designs, drawings, plans, specifications, photos, reports, information, observations, records, opinions, communications, digital files, calculations, notes, and any other documents, data, or information, in any form, prepared, collected, or received by the Service Provider in connection with any or all of the Services to be performed under this Agreement ("Documents") shall be and remain the exclusive property of the Village. At the Village's request, or upon termination of this Agreement, the Service Provider shall cause the Documents to be promptly delivered to the Village, in original format or a suitable electronic format acceptable to the Village.

10.15 **Time.** Time is of the essence in the performance of this Agreement.

10.16 **Conflict Between Agreement and Exhibits.** In the event of a conflict between the Agreement and either Exhibit A and/or Exhibit B of this Agreement, the text of this Agreement shall control.

10.17 **Rights Cumulative.** Unless expressly provided to the contrary in this Agreement, each and every one of the rights, remedies, and benefits provided by this Agreement shall be cumulative and shall not be exclusive of any other such rights, remedies, and benefits allowed by law.

10.18 **Counterpart Execution.** This Agreement may be executed in several counterparts, each of which, when executed, shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

10.19 **Freedom of Information Act.** Service Provider may possess certain public records that may be subject to disclosure, in whole or in part, pursuant to records requests submitted pursuant to the Freedom of Information Act, 5 ILCS 140/1, *et seq.* ("FOIA"). Service Provider agrees to timely cooperate with the Village and by produce records responsive to a FOIA request within Service Provider's possession or custody to the Village, so the Village may comply with FOIA request within the time limits specified in FOIA. If additional time is necessary to compile records in response to a request, then Service Provider shall promptly so notify the Village and if possible, the Village shall request an extension so as to comply with FOIA. In the event the Village is found to have not complied with FOIA due to Service Provider's failure to produce documents or otherwise appropriately respond to a request under FOIA, then Service Provider shall indemnify and hold the Village harmless, and pay all amounts determined to be due including but not limited to fines, costs, attorneys' fees and penalties.

10.20 **Sexual Harassment Policy.** The Service Provider certifies that it has a written sexual harassment policy in full compliance with Section 2-105(A)(4) of the Illinois Human Rights Act, 775 ILCS 512-105(A)(4).

10.21 **No Collusion.** The Service Provider represents and certifies that the Service Provider is not barred from contracting with a unit of state or local government as a result of (i) a delinquency in the payment of any tax administered by the Illinois Department of Revenue unless the Service Provider is contesting, in accordance with the procedures established by the appropriate revenue act, its liability for the tax or the amount of the tax, as set forth in Section 11-42.1-1 *et seq.* of the Illinois Municipal Code, 65 ILCS 5/11-42.1-

1 et seq.; or (ii) a violation of either Section 33E-3 or Section 33E-4 of Article 33E of the Criminal Code of 1961, 720 ILCS 5/33E-1 et seq. The Service Provider represents that the only persons, firms, or corporations interested in this Agreement as principals are those disclosed to the Village prior to the execution of this Agreement, and that this Agreement is made without collusion with any other person, firm, or corporation. If at any time it shall be found that the Service Provider has, in procuring this Agreement, colluded with any other person, firm, or corporation, then the Service Provider shall be liable to the Village for all loss or damage that the Village may suffer, and this Agreement shall, at the Village's option, be null and void.

10.22 Notice. Any notice or communication required or permitted to be given under this Agreement shall be in writing and shall be delivered (i) personally, (ii) by a reputable overnight courier, (iii) by certified mail and deposited in the U.S. Mail, postage prepaid, (iv) by facsimile, or (v) by electronic mail ("e-mail"). Facsimile notices shall be deemed valid only to the extent that they are (a) actually received by the individual to whom addressed and (b) followed by delivery of actual notice in the manner described in either (i), (ii), or (iii) above within three business days thereafter at the appropriate address set forth below. E-mail notices shall be deemed valid and received by the addressee thereof when delivered by e-mail and (a) opened by the recipient on a business day at the address set forth below, and (b) followed by delivery of actual notice in the manner described in either (i), (ii) or (iii) above within three business days thereafter at the appropriate address set forth below. Unless otherwise expressly provided in this Agreement, notices shall be deemed received upon the earlier of (a) actual receipt; (b) one business day after deposit with an overnight courier as evidenced by a receipt of deposit; or (c) three business days following deposit in the U.S. mail. By notice complying with the requirements of this Subsection, each Party shall have the right to change the address or the addressee, or both, for all future notices and communications to such party, but no notice of a change of addressee or address shall be effective until actually received.

Notices and communications to the Village shall be addressed to, and delivered at, the following address:

Village of Gilberts
Attn: Mitchell Anderson
87 Galligan Road
Gilberts, Illinois 60136
Email: manderson@villageofgilberts.com

With a copy to:

Ancel Glink
Attn: Kurt Asprooth
140 S. Dearborn Street, 6th Floor
Chicago, Illinois 60603
Email: kasprooth@ancelglink.com

Notices and communications to the Service Provider shall be addressed to, and delivered at, the following address:

Service Provider Company Name
Attn: Contact Person
Address
City, State, Zip:
Email:

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their duly authorized representatives as of the date first above written.

[INSERT SERVICE PROVIDER NAME]

VILLAGE OF GILBERTS

Signature:_____

Signature:_____

By:_____

By:_____

Title:_____

Title:_____

Date:_____

Date:_____

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EXHIBIT A
SCOPE OF SERVICES

EXHIBIT B
SCHEDULE OF PRICES

4888-1866-7169, v. 1