



AGENDA

FINANCE COMMITTEE

Finance Committee: February 6, 2025 at 5:15 PM

Village Hall 740 Hillgrove Avenue, Western Springs, IL 60558

A. Call to Order

B. Approval of Minutes

1. Minutes - November 18, 2024

C. Public Comment

D. New Business

1. Budget Amendment: Recreation - Rec HVAC & Grand Ave Gym Improvement
2. Budget Amendment: Village Hall HVAC Controls
3. EMS/MC Billing Services Agreement

E. Other Business

F. Schedule Next Committee Meeting

Individuals with disabilities who plan to attend / participate in this meeting and who require accommodations to allow them to observe and participate, or who have questions regarding accessibility of the meeting or facilities, are requested to contact Jill Izzo at 708-246-1800, extension 127.

Finance Committee Meeting Minutes
Monday, November 18, 2024
Village Hall

Others Present:

Nicole Chen, Chairperson
Scott Lewis, Trustee
John Mastandona, Director of Finance
Heidi Rudolph, Village President
Ellen Baer, Village Manager
Casey Biernacki, Deputy Village Manager
Matt Supert, Director of Municipal Services
Jeff Koza, Director of Engineering Services

Meeting called to order at 5:06 pm

Items of Discussion:

- **Minutes:** The minutes of the November 4, 2024, Finance Committee meeting were approved as presented. Motion by Chairperson Chen and second by Trustee Lewis.
- **Referendum to Issue General Obligation Bonds to Fund Infrastructure:** The Committee discussed a referendum to issue General Obligation Bonds to fund infrastructure. Staff was present to provide information on projects included in the Capital Infrastructure Plan and how this funding would assist in addressing some of the high priority projects included within the plan. The Committee discussed the process of the referendum, the timing of funding, alternative options, and the dollar amount to be requested. The Committee decided that \$45 million was an appropriate request. Chairperson Chen motioned that the request to approve a referendum question for the Village to issue \$45 million in General Obligation Bonds be placed on the December 2nd Board of Trustees meeting agenda and a second by Trustee Scott. Motion passed by a roll call vote.
- **Transfer of Excess Reserves from the General Fund to the Capital Improvement Fund & the Special Purpose Reserve Fund:** Director Mastandona presented the request to transfer excess reserves from the General Fund to the Capital Improvement Fund and the Special Purpose Reserve Fund. He stated that the reserve policy for the General Fund is set at 30% of operating expenses and that reserves is currently over that amount. The Committee discussed the request and Chairperson Chen motioned that the requested transfer be placed on the December 2nd Board of Trustees meeting agenda and a second by Trustee Scott. Motion passed by a roll call vote.
- **Budget Amendments/Transfers – Municipal Services:** Director Supert presented the request of multiple budget amendments and transfers for expenditures incurred in 2024. The Committee reviewed the request and Chairperson Chen motioned that the requested the budget amendments and transfers be placed on the December 2nd Board of Trustees meeting agenda and a second by Trustee Scott. Motion passed by a roll call vote.
- **Budget Amendments/Transfers – Finance: Excess Reserves:** Director Mastandona presented a request of a budget amendment to the approved 2024 budget to accommodate the transfer of excess reserves, previously discussed. The Committee reviewed the request and Chairperson Chen motioned that the requested the budget amendments and transfers be placed on the December 2nd Board of Trustees meeting agenda and a second by Trustee Scott. Motion passed

by a roll call vote.

- **South TIF Expenditures – Second Distribution per Economic Incentive Agreement to Hawthorn 45, LLC:** Director Mastandona presented the request of the second disbursement to Hawthorn 45, LLC for the increment received from the 2023 Levy year in the amount of \$145,295.23. The Committee reviewed the request and Chairperson Chen motioned that the request be placed on the December 2nd Board of Trustees meeting agenda and a second by Trustee Scott. Motion passed
- **2024 Property Tax Levy:** Director Mastandona presented the Estimated 2024 Property Tax Levy. He stated that there were no changes since the Committee reviewed at its November 4th meeting. To summarize the total Village levy was \$8,867,538 which is an increase of 1.46% from the prior year. He continued that if the Finance Committee recommended this item, the Village Board would consider a resolution of the Estimated Property Tax Levy. A public hearing will be held on December 2, 2024, with adoption to occur on December 16, 2024. The Committee recommended that the Estimated Real Property Tax Levy for 2024 be placed on the December 2nd Board of Trustees meeting for consideration. Chairperson Chen made the motion and seconded by Trustee Lewis. Motion passed.
- **2025 Budget:** The Committee reviewed revenues and expenditures in the General Fund, Water & Sewer Fund, and the Capital Improvement Fund. Director Mastandona highlighted some of the assumptions used for revenues and some of the changes in expenditures compared to prior years. He stated that a public hearing will be held on December 2, 2024, with adoption to occur on December 16, 2024. The Committee recommended that the 2025 Budget be placed on the December 2nd Board of Trustees meeting for consideration. Chairperson Chen made the motion and seconded by Trustee Lewis. Motion passed.
- **Other Business:** None

Motion to adjourn by Trustee Scott Lewis and second by Chairperson Chen.

There being no further business, the meeting was adjourned at 7:19 pm

Respectfully Submitted,
John Mastandona
Director of Finance

APPROVED:



AGENDA ITEM SUMMARY

FINANCE COMMITTEE

Finance Committee: February 6, 2025

AGENDA ITEM D.1.

To: Finance Committee

From: Aleks Briedis, Director of Recreation

CC: Ellen Baer, Village Manager, John Mastandona, Director of Finance

RE: Budget Amendment: Recreation - Rec HVAC & Grand Ave Gym Improvement

Recommendation

Consider a recommendation to approve budget amendments to the Recreation Fund.

Summary

Attached for review are the following budget amendments for the Recreation Department:

6603210-60015 Building and Building Improvements (\$44,705.47)

The replacement of the HVAC rooftop units at the Recreation Center gymnasium project was estimated to be completed prior to December 31, 2024, however the project was unable to be completed by year-end. The project will be completed in February 2025. The total amount of the project is \$67,058.20 and was entirely budgeted in FY 2024. \$22,352.73 worth of the project was completed and paid out in FY 2024, leaving \$44,705.47 in the fund balance. Staff is requesting a budget amendment of \$44,705.47 in the FY 2025 Recreation Fund.

6605210-60015 Building and Building Improvements (\$84,159.14)

The Grand Avenue Gym Improvement project was estimated to be completed prior to December 31, 2024; however, the project has been delayed due to a backorder of the basketball backboard fixtures. The project is now estimated to be completed by April 2025.

The total amount of the project is \$179,594 and was entirely budgeted in FY 2024. \$95,434.86 worth of the project was completed and paid out in FY 2024, leaving \$84,159.14 in the fund balance. Staff is requesting a budget amendment of \$84,159.14 in the FY 2025 Recreation Fund.

Both projects were anticipated to be completed and paid in FY 2024. These estimates were included in the anticipated 2024 expenditures in the 2025 budget, which means the proposed budget amendments will not impact the estimated fund balance included in the 2025 Budget.

Financial Impact

Budget amendment in the amounts of:

Amount \$44,705.47

Account 6603210-60015

Amount \$84,159.14
Account 6605210-60015

Both accounts are included in the Recreation Fund.

Recommended Motion

I move to recommend to the Village Board the review and approval of budget amendments for the Recreation Fund.

Strategic Plan Alignment

File Attachments

1. Budget Amendment - Rec gym HVAC and Grand gym improvement - 01.29.25

**VILLAGE OF WESTERN SPRINGS
BUDGET TRANSFER/AMENDMENT FORM**

Requested by: Aleks Briedis
Date: 01/29/25

FINANCE USE ONLY:

APPROVED:

FROM ACCOUNT: (decrease)			TO ACCOUNT: (increase)		
NUMBER	DESCRIPTION	AMOUNT	NUMBER	DESCRIPTION	AMOUNT
			6603210-60015	Bldg & Bldg Improvements	\$44,706

REASON: _____

REASON: Rec gym HVAC project not completed in FY 2024
Carry forward remaining balance to FY 2025

Village Manager _____ Da

Dir of Support Svcs _____ Dat

DATE ENTERED

____/____/____

By: _____

NUMBER	DESCRIPTION	AMOUNT	NUMBER	DESCRIPTION	AMOUNT
			6605210-60015	Bldg & Bldg Improvements	\$84,160

REASON: _____

REASON: Grand Ave gym improvement project not completed in
FY 2024. Carry forward remaining balance to FY 2025

Resolution Required:

Yes _____

Resolution # _____

No _____

NUMBER	DESCRIPTION	AMOUNT	NUMBER	DESCRIPTION	AMOUNT

REASON: _____

REASON: _____

Budget Transfer # _____

Page _____ of _____

NUMBER	DESCRIPTION	AMOUNT	NUMBER	DESCRIPTION	AMOUNT

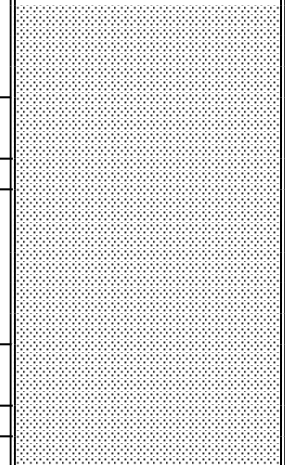
REASON: _____

REASON: _____

NUMBER	DESCRIPTION	AMOUNT	NUMBER	DESCRIPTION	AMOUNT

REASON: _____

REASON: _____





AGENDA ITEM SUMMARY

FINANCE COMMITTEE

Finance Committee: February 6, 2025

AGENDA ITEM D.2.

To: Finance Committee

From: Matthew Supert, Director of Municipal Services

CC: Ellen Baer, Village Manager, William Tomczyk, Diana Puga, Municipal Services Coordinator

RE: Budget Amendment: Village Hall HVAC Controls

Recommendation

Consider a recommendation to approve a budget amendment in the amount of \$51,750 for the 2025 Village Hall HVAC Controls contract with the lowest bidder, Air Comfort, LLC.

Summary

The Village HVAC controls system is more than twenty years old and currently operates on a Windows XP computer system, which presents potential network and security risks to the Village's infrastructure and internal computer network. Additionally, some components of the HVAC system are more than twenty years old. In 2024, the Village Board approved an architectural design contract with 845 Design Group and Novaspace to review and design bid specifications for a replacement system.

On December 5, 2024, the Village issued a Request for Bids (RFB) for the replacement of Village Hall's HVAC Controls. An optional walk-through was held on December 13, in which interested bidders were provided an overview of the contract document and were encouraged to ask questions. On December 19, the Village received a total of 3 bids.

The results of the base bids are summarized as follows:

Air Comfort, LLC	\$ 84,900.00
Interactive Building Solutions	\$ 167,100.00
Building Automation Solutions	\$ 207,280.00

The bid tab, including all alternates, is attached to this report.

The Municipal Services and IT Departments reviewed the project and proposals, and after careful consideration of the alternates, staff recommends adding the following alternates to the base bid pricing:

1. Alternate #2: Electric radiant heat to operate in conjunction with VAV-25

This alternate would integrate the Police Departments' women's locker room into the controls system. It is currently on its own stand-alone thermostat.

2. Alternate #3: Electric radiant heat to operate in conjunction with VAV-9
This alternate would integrate the Police Departments' men's locker room into the controls system. It is currently on its own stand-alone thermostat.

3. Alternate #5: Stand-Alone EF's on BAS
This alternate would allow for the exhaust fans to be turned off while the building is not occupied, reducing energy. The exhaust fans currently run 24 hours a day.

The recommended alternate pricing combined is summarized as follows:

Air Comfort, LLC	\$ 3,850.00
Interactive Building Solutions	\$ 10,100.00
Building Automation Solutions	\$ 15,200.00

The total recommended bid amount with additional alternates would be \$88,750.00.

The Village budgeted \$37,000 for this project in the 2025 budget. During the initial design of the bid specifications, it was anticipated that the existing HVAC controls could remain in place and the components of the system could be replaced/upgraded. It was discovered that HVAC control systems have changed significantly since the system was last modified approximately twenty years ago. Any new controls system would require an entirely new controller and new components, along with the associated programming for those components. The Municipal Services Department is requesting a budget amendment in the amount of \$51,750.00. That amendment will need to be approved prior to any approval of this recommended bid. The Properties & Recreation Committee will meet on Tuesday, February 4th to review the bid proposal and advanced a recommendation to the Village Board for consideration pending the budget amendment.

Financial Impact

The HVAC Controls Project is funded through the Capital Improvement Fund as listed below. The 2025 budget includes \$37,000.00 for this project. A budget amendment of \$51,750 will be required to fund the entire project.

Account	4104310 60020
Fund	Capital Fund
2025 Budget	\$ 37,000.00
Project Cost	\$ 88,750.00

Recommended Motion

I move recommend a budget amendment in an amount of of \$51,750 for the 2025 Village Hall HVAC Controls contract to the lowest bidder, Air Comfort, LLC.

Strategic Plan Alignment

Infrastructure Improvements

File Attachments

1. Budget Amendment - - VH HVAC Controls - 4104310 60020 - February 2025
2. Letter of recommendation 01.17.2025
3. 2024 HVAC Controls - Air Comfort Bid
4. Bid Tabulation (1)

**VILLAGE OF WESTERN SPRINGS
BUDGET TRANSFER/AMENDMENT FORM**

Requested by: Matthew Supert
Date: 02/04/25

FINANCE USE ONLY:
APPROVED:

FROM ACCOUNT: <i>(decrease)</i>			TO ACCOUNT: <i>(increase)</i>		
NUMBER	DESCRIPTION	AMOUNT	NUMBER	DESCRIPTION	AMOUNT
			4104310 60020	Machinery and Equipment	\$51,750

Village Manager _____ Da
Dir of Support Svcs _____ Dat

REASON: _____ REASON: Unanticipated additional cost for project completion

DATE ENTERED
____/____/____

NUMBER	DESCRIPTION	AMOUNT	NUMBER	DESCRIPTION	AMOUNT

By: _____

REASON: _____ REASON: _____

Resolution Required:
Yes _____
Resolution # _____
No _____

NUMBER	DESCRIPTION	AMOUNT	NUMBER	DESCRIPTION	AMOUNT

Budget Transfer # _____

REASON: _____ REASON: _____

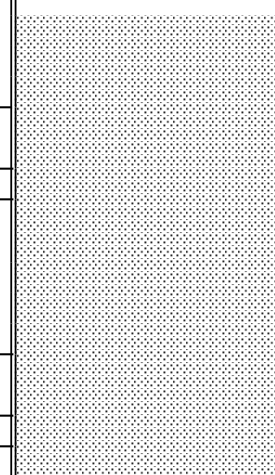
Page _____ of _____

NUMBER	DESCRIPTION	AMOUNT	NUMBER	DESCRIPTION	AMOUNT

REASON: _____ REASON: _____

NUMBER	DESCRIPTION	AMOUNT	NUMBER	DESCRIPTION	AMOUNT

REASON: _____ REASON: _____



JANUARY 17, 2025

Matthew Supert, Director of Municipal Services
Village of Western Springs
740 Hillgrove
Western Springs, IL. 60558

Re: The Village of Western Springs, Village Hall, Temperature Control System
Upgrades

Dear Matt,

This project was bid twice due to low bidder turnout. In the most recent bid process a pre-bid walk through was held at the site on December 13, 2024. One Contractor attended, and three Contractors provided bids for the project. The bids varied from \$88,750.00 (accepting three alternates) to \$207,280.00. Air Comfort was the low bidder with a bid of \$88,750.00. The references provided by Air Comfort were verified; all four references were reached. The feedback was very positive and each recommendation stated that they have or will work with Air Comfort in the future. All references stated that Air Comfort has a good technical team and is qualified to complete the work. I spoke with the Steve Strnic, a Project Executive at Air Comfort, and verified the scope of the project and confirmed that the bid was based on prevailing wage numbers.

Based on the references provided, the work went well and all references stated Air Comfort is a very capable Contractor and will continue to work with them. I am comfortable with recommending Air Comfort for the Village Hall Temperature Controls System Upgrades. Please let me know if you have any questions or require further information.

Best Regards,



Jamie Zaura, AIA, LEED AP BD+C
Principal, 845 Design Group P.C.



Temperature Control Proposal

TO: Village of Western Springs

DATE: December 17, 2024

**PROJECT: Village of Western Springs Village Hall –
Temperature Control System Upgrades**

We propose to furnish the materials and/or perform the work described below for the net price of:

Base Bid: \$84,900.00

Alternate #1 New boiler controls.....\$9,450.00

Alternate #2 Electric radiant heat to operate in conjunction with VAV-25.....\$1,150.00

Alternate #3 Electric radiant heat to operate in conjunction with VAV-9.....\$1,150.00

Alternate #4 Stand-Alone CUH & UH on BAS.....\$8,550.00

Alternate #5 Stand-Alone EF's on BAS.....\$1,550.00

For the above Base Bid price this proposal includes:

- Furnish and install open protocol Temperature Controls System work per the project plans & specifications dated 12/5/2024 and all associated addenda.

Lower Level

- Furnish and install (7) new thermostats for electric duct re-heat control
- Furnish and install (2) new thermostats for VAV and associated re-heat control
- Provide Johnson Controls, Inc Facility Explorer BAS Network, Supervisory Controller (FX90), programming, and commissioning. Provide and install new server to aggregate information. The new system will integrate with the existing BAS
- Integrate TEKMAR boiler controller into new building automation system
- Existing VFD's to remain
- Existing electrical panel for reheats to remain

First Floor

- Furnish and install (19) new thermostats for VAV and associated re-heat control

Our Base Bid proposal includes:

- Provide BAS training
- Provide union electrical labor & installation materials as specified. All exposed or concealed-inaccessible wiring shall be installed in EMT conduit. All concealed accessible wiring (above drop ceilings, etc.) shall be properly supported open plenum cable



AIR COMFORT

Providing the Right Climate for Business Since 1935

- Engineering, project management, owner training, commissioning agent assistance and (2) year warranty on items we provide

Our Base Bid proposal does not include:

- Providing Variable Frequency Drives
- Test & Balance scope of work (we will assist the T&B Contractor as required)
- Furnishing or wiring of Fire & Smoke Dampers/Actuators, & AHU Duct Smoke Detectors
- Painting & patching. Ceiling removals and/or replacements
- Any work shown on the Electrical Drawings. Power wiring to any mechanical equipment.
- Overtime Labor

(IMPORTANT: This proposal incorporates by reference the terms and conditions on the reverse side hereof).
 This proposal and alternates listed below are hereby accepted and Applied Controls is authorized to proceed with the work.

This proposal is valid until:

December 31, 2024

AIR COMFORT, LLC

Purchaser - Company Name

Signature

Name: _____
 Title: _____
 Date: _____

Signature

Name: Kevin Kisala
 Title: Vice President



STANDARD EXCLUSIONS & CLARIFICATIONS

1. All work to be completed on straight time during normal working hours 7:00 a.m. – 3:30 p.m. Monday through Friday, excluding holidays, unless otherwise indicated.
2. Adequate access and entry into site and work area(s) is required.
3. Any work found necessary other than what is outlined and approved within this proposal will be completed on a time and material or quoted basis and invoiced accordingly.
4. Permits, permit drawings, PSM or engineered drawings and engineering fees are not included unless otherwise indicated.
5. Structural engineering is not included.
6. Asbestos abatement or testing of any kind is not included.
7. Painting or patching or drywall repair is not included.
8. Project change orders or additional work outside of original scope must be agreed to in writing prior to proceeding or acceptance.
9. Air Comfort reserves the right to invoice for materials ordered but not installed due to installation or repair delays which are a result of customer scheduling, access to equipment, delays created by other trades not under contract with Air Comfort or overall project delays which fall outside of our immediate control.
10. Warranty Terms:
 - a. Standard warranty for service repairs is one (1) year from date of completion if the repaired systems/equipment is maintained on a regular PM schedule by Air Comfort certified technicians.
 - b. Equipment which is not maintained by Air Comfort. by others is subject to a 90-day warranty, material, and workmanship.
 - c. Warranty exclusions other than those noted above or extended warranties where applicable will be noted within the proposal if repair or replacement of proposed equipment warranty would deviate from standard options.
 - d. Seal repair or replacement carry a standard manufacturer 90-day warranty.
 - e. Equipment or materials supplied by customers and installed by Air Comfort maintain a workmanship warranty.
11. All applicable sales tax has been included unless otherwise indicated.
12. This proposal shall remain valid for 30 days.
13. Payment terms are net 30 days.
14. Credit card payments will incur a 5% processing fee per transaction unless otherwise agreed upon prior to purchase.

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- Providing Variable Frequency Drives
- Test & Balance scope of work (we will assist the T&B Contractor as required)
- Furnishing or wiring of Fire & Smoke Dampers/Actuators, & AHU Duct Smoke Detectors
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- Any work shown on the Electrical Drawings. Power wiring to any mechanical equipment.
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This proposal is valid until:

December 31, 2024

AIR COMFORT, LLC

Purchaser - Company Name

Signature

Name: _____
 Title: _____
 Date: _____

Signature

Name: Kevin Kisala
 Title: Vice President



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2. Adequate access and entry into site and work area(s) is required.
3. Any work found necessary other than what is outlined and approved within this proposal will be completed on a time and material or quoted basis and invoiced accordingly.
4. Permits, permit drawings, PSM or engineered drawings and engineering fees are not included unless otherwise indicated.
5. Structural engineering is not included.
6. Asbestos abatement or testing of any kind is not included.
7. Painting or patching or drywall repair is not included.
8. Project change orders or additional work outside of original scope must be agreed to in writing prior to proceeding or acceptance.
9. Air Comfort reserves the right to invoice for materials ordered but not installed due to installation or repair delays which are a result of customer scheduling, access to equipment, delays created by other trades not under contract with Air Comfort or overall project delays which fall outside of our immediate control.
10. Warranty Terms:
 - a. Standard warranty for service repairs is one (1) year from date of completion if the repaired systems/equipment is maintained on a regular PM schedule by Air Comfort certified technicians.
 - b. Equipment which is not maintained by Air Comfort. by others is subject to a 90-day warranty, material, and workmanship.
 - c. Warranty exclusions other than those noted above or extended warranties where applicable will be noted within the proposal if repair or replacement of proposed equipment warranty would deviate from standard options.
 - d. Seal repair or replacement carry a standard manufacturer 90-day warranty.
 - e. Equipment or materials supplied by customers and installed by Air Comfort maintain a workmanship warranty.
11. All applicable sales tax has been included unless otherwise indicated.
12. This proposal shall remain valid for 30 days.
13. Payment terms are net 30 days.
14. Credit card payments will incur a 5% processing fee per transaction unless otherwise agreed upon prior to purchase.

I. Legal Notice

VILLAGE OF WESTERN SPRINGS, VILLAGE HALL – TEMPERATURE CONTROL SYSTEM UPGRADES

The Village of Western Springs, Cook County, Illinois, does hereby invite sealed bids for the following: Village of Western Springs

Bids will be received until **9:00 am**, Prevailing Local Time on **Thursday, December 19, 2024** by mail or delivered by hand to the drop box located outside the front entrance of Village Hall, Village of Western Springs, 740 Hillgrove Avenue, Western Springs, Illinois, 60558-0528 immediately after which time and at such place all bids will be publicly opened. A walk through of the Village Hall (meet in the lobby) located at 740 Hillgrove Avenue, Western Springs, IL 60558 shall be held on **Friday, December 13, 2024 at 9:00 am**.

Those desiring to bid may obtain copies of the contract, specifications and other bidding documents online at wsprings.com/bids.

As evidence of good faith, each bid shall be accompanied by a bid bond, bank draft or certified check and made payable to the Village of Western Springs, Illinois, in the amount of five hundred dollars (\$500) or 10% of the bid price, whichever is greater, which shall be submitted to secure the Village against loss occasioned by failure of the bidder to abide by and comply with the terms of his bid.

The successful bidder shall be required to furnish payment and performance bonds in the full amount of the bid or proposal, at the time a contract is awarded, to the Village of Western Springs by a surety company authorized to do business in the State of Illinois and approved by the Village. Failure to produce acceptable bonds will constitute default and the bid bond will be forfeited. No bid shall be withdrawn after the opening of bids without the consent of the Village for a period of sixty (60) days after the scheduled time of closing bids.

Bidders will be required to comply with all laws including those related to employment of labor and the payment of local prevailing wage rates. Each bidder shall satisfy the Village as to his ability, financial and otherwise, to perform the work specified.

The Village Board reserves the right to reject any applicable bids for any reason, if it decides that such rejection is in the Village's interest, to reject any nonconforming bids, to waive any informalities in bidding, and to make award on that bid, which, in its opinion, is most advantageous to the Village. The contract will be awarded to the lowest responsible bidder.

VILLAGE OF WESTERN SPRINGS
By Edward Tymick, Village Clerk

Published in the Sun-Times Newspaper on December 5, 2024
cc: Ellen Baer, Village Manager

II. Instructions to Bidders

VILLAGE OF WESTERN SPRINGS
DUE DATE: December 19, 2024

Proposals to be entitled to consideration must be made in accordance with the following instructions:

Proposals shall be submitted in an opaque, sealed envelope plainly marked with the words:

VILLAGE OF WESTERN SPRINGS VILLAGE HALL – TEMPERATURE CONTROL SYSTEM UPGRADES

and shall be delivered by hand to a drop box or mailed in time for delivery to the Office of Village Clerk, Village of Western Springs, 740 Hillgrove Avenue, Western Springs, Illinois by **9:00 A.M.** Prevailing Local Time on **Thursday, December 19, 2024**, after which time and at such place all bids will be publicly opened and read aloud. A walk through of the Village Hall located at 740 Hillgrove Avenue, Western Springs, IL 60558 shall be held on **Friday, December 13, 2024 at 9:00 am.**

Proposals received after the time for opening will not be considered.

Proposals must be signed by an authorized official of the contractor's organization, and the name of the official and his title typed below the signature. If the bidder is a corporation, the corporate seal must be affixed.

Bid security in the form of a bid bond, bank draft or certified check made payable to the Village of Western Springs, in the amount of FIVE HUNDRED DOLLARS (\$500) or 10% of the bid (whichever is more), shall be submitted with each bid. The proceeds of any bid security shall become the property of the Village if, for any reason, a bidder, within FORTY-FIVE (45) days after the opening of bids withdraws his bid without the consent of the Village, or if on notice of award refuses or is unable to execute the approved contract and obtain the required performance and payment bonds. Bid deposits may be held for a period not exceeding FORTY FIVE (45) days. (NOTE: For those projects which will not require the performance bonds, consideration should be given to holding the bid security until delivery is made.)

The Village Board reserves the right to reject any applicable bids for any reason, if it decides that such rejection is in the Village's interest, to reject any nonconforming bids, to waive any informalities in bidding, and to make award on that bid, which, in its opinion, is most advantageous to the Village. The contract will be awarded to the lowest responsible bidder.

The successful bidder will be required to furnish and pay for satisfactory Performance and Labor and Material Payment Bonds in the amount of one hundred percent (100%) of the contact sum. Execution of the Contract by the Village is contingent upon receipt of acceptable Performance and Payment Bonds and Insurance Certificates.

The Village reserves the right to require of any bidder, such information necessary to satisfy the Village of the bidder's qualifications and to withhold formal signing of the contract until such information is received.

The successful bidder will be required to execute a contract in the form prescribed by the Village and must certify that the bidder is eligible to enter into public contracts under the Illinois Criminal Code, has a written sexual harassment policy and complies with Illinois Department of Revenue policies regarding taxes by executing the Certification attached hereto as "**Exhibit A**" and made a part hereof.

Bidders will be required to comply with all applicable laws including those relating to the employment of labor and the Illinois Prevailing Wage Act and payment of the applicable prevailing wage.

This contract will be awarded without discrimination in compliance with all applicable local state and federal laws.

Responsibility of the bidders will be determined by factors in addition to financial responsibility, such as past records of its or other entities' transactions with the Village of Western Springs, experience, ability to work cooperatively with the Village and its Administration, adequacy of equipment, ability to complete performance within necessary time limits, and other pertinent considerations, such as, but not limited to, reliability, reputation, competency, skill, efficiency, facilities and resources.

III. Proposal

TO: Village of Western Springs
740 Hillgrove Avenue
Western Springs, IL 60558

RE: VILLAGE OF WESTERN SPRINGS VILLAGE HALL – TEMPERATURE CONTROL SYSTEM UPGRADES

1. The specifications and directions for the proposed service are those prepared by the Village of Western Springs and designated as Special Provisions and which cover the work described in said document and the "Agreement."
2. In submitting this proposal, the undersigned declares that the only persons or parties interested in the proposal as principals are those named herein; and that the proposal is made without collusion with any other person, firm, or corporation.
3. The undersigned further understands and agrees that if this proposal is accepted, the undersigned is to furnish and provide all necessary equipment, machinery, tools, apparatus and other means of maintenance, and to do all of the work and perform all the services, and to furnish all of the materials specified in the bid documents in the manner and at the time therein prescribed, and in accordance with the requirements therein set forth.
4. The undersigned further agrees to execute an Agreement for this work and present the same to the Village within seven (7) days after the date of notice of the award of the Agreement to the Contractor.
5. The undersigned further agrees that he and his surety will execute and present within seven (7) days after the date of notice of the award of Agreement the performance and labor and materials payment bonds in a form satisfactory to the Village of Western Springs, in the amount of one hundred percent (100%) of the contract sum guaranteeing the faithful performance of the work in accordance with the terms of the bid documents.
6. The undersigned further agrees to be available to begin work by **February 2025**, as provided for in the Agreement, unless otherwise agreed to by the Village, and to prosecute the work in such manner and with sufficient materials, equipment, and labor as will insure the providing of specified service within the time limit specified herein, it being understood and agreed that the providing of the specified service within the time limit and according to the maintenance schedule is an essential part of the Agreement.
7. This proposal is accompanied by a bid bond, bank draft or certified check complying with the requirements of the specifications and directions, made payable to the "Village of Western Springs, Illinois". The amount of the bid security is Five Hundred (\$500.00) Dollars of 10% of the bid (whichever is more). If this proposal is accepted




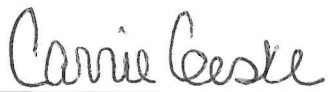
and the undersigned shall fail to execute an Agreement and said security as required herein, it is hereby agreed that the amount of the bid bonds shall become the property of the Village, and shall be considered as payment of damages due to delay and other causes suffered by the Village because of failure to execute said Agreement or provide the required performance and payment bonds; otherwise said bid security shall be returned to the undersigned pursuant to the bid documents.

ATTACH BID SECURITY HERE

- 8. The undersigned submits herewith a schedule of prices covering the work to be performed under this Agreement; the undersigned must show in the schedule the prices for which the undersigned proposed to perform.
- 9. The undersigned further declares to have carefully examined this proposal, the specifications and directions, the Agreement, the legal notice, and special provisions (if any), and to have inspected in detail the site of the proposed work and is familiar with all of the local conditions affecting the Agreement and the detailed requirements of service and understands that in making this proposal waives all right to plead any misunderstanding regarding the same.

12/17/2024
Date


Proposed Contractor (Bidder)


Witness

AIA Document A310™ – 2010

Bid Bond

CONTRACTOR:

(Name, legal status and address)

Air Comfort LLC
2550 Braga Drive
Broadview, IL 60155

SURETY:

(Name, legal status and principal place of business)

Berkshire Hathaway Specialty
Insurance Company
1314 Douglas Street, Suite 1400
Omaha, NE 68102

OWNER:

(Name, legal status and address)

Village of Western Springs
740 Hillgrove Avenue
Western Springs, IL 60558

BOND AMOUNT: \$ Ten Percent (10%) of Amount Bid

PROJECT:

(Name, location or address, and Project number, if any)

Village of Western Springs Village Hall – Temperature Control System Upgrades

The Contractor and Surety are bound to the Owner in the amount set forth above, for the payment of which the Contractor and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, as provided herein. The conditions of this Bond are such that if the Owner accepts the bid of the Contractor within the time specified in the bid documents, or within such time period as may be agreed to by the Owner and Contractor, and the Contractor either (1) enters into a contract with the Owner in accordance with the terms of such bid, and gives such bond or bonds as may be specified in the bidding or Contract Documents, with a surety admitted in the jurisdiction of the Project and otherwise acceptable to the Owner, for the faithful performance of such Contract and for the prompt payment of labor and material furnished in the prosecution thereof; or (2) pays to the Owner the difference, not to exceed the amount of this Bond, between the amount specified in said bid and such larger amount for which the Owner may in good faith contract with another party to perform the work covered by said bid, then this obligation shall be null and void, otherwise to remain in full force and effect. The Surety hereby waives any notice of an agreement between the Owner and Contractor to extend the time in which the Owner may accept the bid. Waiver of notice by the Surety shall not apply to any extension exceeding sixty (60) days in the aggregate beyond the time for acceptance of bids specified in the bid documents, and the Owner and Contractor shall obtain the Surety's consent for an extension beyond sixty (60) days.

If this Bond is issued in connection with a subcontractor's bid to a Contractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

When this Bond has been furnished to comply with a statutory or other legal requirement in the location of the Project, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so

ADDITIONS AND DELETIONS:

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

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

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

Bid Bond

Init.

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User Notes:

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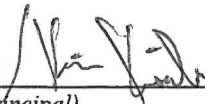
1


furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

Signed and sealed this 19th day of December , 2024

Carrie Coeske
(Witness)

Laura A. Benevento
(Witness) Laura A. Benevento

Air Comfort LLC 
(Contractor as Principal) (Seal)
Vice President
(Title)

Berkshire Hathaway Specialty Insurance Company
(Surety) (Seal)

(Title) Evelyn A. Benevento, Attorney-in-Fact

Init.

Additions and Deletions Report for AIA® Document A310™ – 2010

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

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 17:32:12 ET on 12/11/2024.

PAGE 1

Air Comfort LLC
2550 Braga Drive
Broadview, IL 60155

Berkshire Hathaway Specialty
Insurance Company
1314 Douglas Street, Suite 1400
Omaha, NE 68102

...

Village of Western Springs
740 Hillgrove Avenue
Western Springs, IL 60558

...

BOND AMOUNT: \$ Ten Percent (10%) of Amount Bid

...

Village of Western Springs Village Hall – Temperature Control System Upgrades
PAGE 2

Signed and sealed this 19th day of December, 2024

Air Comfort LLC

...

Berkshire Hathaway Specialty Insurance Company


...

(Witness) Laura A. Benevento


(Title) Evelyn A. Benevento, Attorney-in-Fact

Certification of Document's Authenticity
AIA® Document D401™ – 2003

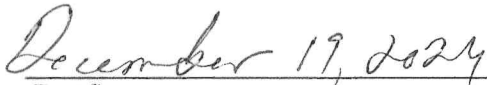
I, Evelyn A. Benevento, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 17:32:12 ET on 12/11/2024 under Order No. 3104238759 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A310™ – 2010, Bid Bond, other than those additions and deletions shown in the associated Additions and Deletions Report.



(Signed)



(Title)



(Dated)

Power Of Attorney
BERKSHIRE HATHAWAY SPECIALTY INSURANCE COMPANY
NATIONAL INDEMNITY COMPANY / NATIONAL LIABILITY & FIRE INSURANCE COMPANY

Know all men by these presents, that **BERKSHIRE HATHAWAY SPECIALTY INSURANCE COMPANY**, a corporation existing under and by virtue of the laws of the State of Nebraska and having an office at One Lincoln Street, 23rd Floor, Boston, Massachusetts 02111, **NATIONAL INDEMNITY COMPANY**, a corporation existing under and by virtue of the laws of the State of Nebraska and having an office at 3024 Harney Street, Omaha, Nebraska 68131 and **NATIONAL LIABILITY & FIRE INSURANCE COMPANY**, a corporation existing under and by virtue of the laws of the State of Connecticut and having an office at 100 First Stamford Place, Stamford, Connecticut 06902 (hereinafter collectively the "Companies"), pursuant to and by the authority granted as set forth herein, do hereby name, constitute and appoint: **Evelyn A. Benevento, Kimberly Miles, Tammy Selbe, Katelyn Williams, Nicole Moon, 3190 Fairview Park Drive, Suite 400 of the city of Falls Church, State of Virginia**, their true and lawful attorney(s)-in-fact to make, execute, seal, acknowledge, and deliver, for and on their behalf as surety and as their act and deed, any and all undertakings, bonds, or other such writings obligatory in the nature thereof, in pursuance of these presents, the execution of which shall be as binding upon the Companies as if it has been duly signed and executed by their regularly elected officers in their own proper persons. **This authority for the Attorney-in-Fact shall be limited to the execution of the attached bond(s) or other such writings obligatory in the nature thereof.**

In witness whereof, this Power of Attorney has been subscribed by an authorized officer of the Companies, and the corporate seals of the Companies have been affixed hereto this date of August 24, 2023. This Power of Attorney is made and executed pursuant to and by authority of the Bylaws, Resolutions of the Board of Directors, and other Authorizations of **BERKSHIRE HATHAWAY SPECIALTY INSURANCE COMPANY, NATIONAL INDEMNITY COMPANY and NATIONAL LIABILITY & FIRE INSURANCE COMPANY**, which are in full force and effect, each reading as appears on the back page of this Power of Attorney, respectively. **The following seals of the Companies and signatures by an authorized officer of the Company may be affixed by facsimile or digital format, which shall be deemed the equivalent of and constitute the written signature of such officer of the Companies and original seals of the Companies for all purposes regarding this Power of Attorney, including satisfaction of any signature and seal requirements on any and all undertakings, bonds, or other such writings obligatory in the nature thereof, to which this Power of Attorney applies.**

BERKSHIRE HATHAWAY SPECIALTY INSURANCE COMPANY,



By: _____
David Fields, Executive Vice President



**NATIONAL INDEMNITY COMPANY,
NATIONAL LIABILITY & FIRE INSURANCE COMPANY,**



By: _____
David Fields, Vice President

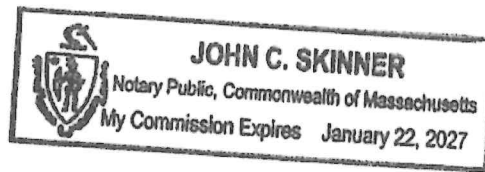



NOTARY

State of Massachusetts, County of Suffolk, ss:

On this 24th day of August, 2023, before me appeared David Fields, Executive Vice President of **BERKSHIRE HATHAWAY SPECIALTY INSURANCE COMPANY** and Vice President of **NATIONAL INDEMNITY COMPANY** and **NATIONAL LIABILITY & FIRE INSURANCE COMPANY**, who being duly sworn, says that his capacity is as designated above for such Companies; that he knows the corporate seals of the Companies; that the seals affixed to the foregoing instrument are such corporate seals; that they were affixed by order of the board of directors or other governing body of said Companies pursuant to its Bylaws, Resolutions and other Authorizations, and that he signed said instrument in that capacity of said Companies.

[Notary Seal]






Notary Public

I, Ralph Tortorella, the undersigned, Officer of **BERKSHIRE HATHAWAY SPECIALTY INSURANCE COMPANY, NATIONAL INDEMNITY COMPANY and NATIONAL LIABILITY & FIRE INSURANCE 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**, see hereunto affixed the seals of said Companies this **December 19, 2024**.





Ralph Tortorella, Officer

To verify the authenticity of this Power of Attorney please contact us at: BHSI Surety Department, Berkshire Hathaway Specialty Insurance Company, One Lincoln Street, 23rd Floor Boston, MA 02111 | (770) 625-2516 or by email at Jennifer.Porter@bhspecialty.com. **THIS POWER OF ATTORNEY IS VOID IF ALTERED**
To notify us of a claim please contact us on our 24-hour toll free number at (855) 453-9675, via email at claimsnotice@bhspecialty.com, via fax to (617) 507-8259, or via mail.

BERKSHIRE HATHAWAY SPECIALTY INSURANCE COMPANY (BYLAWS)

ARTICLE V.

CORPORATE ACTIONS

....

EXECUTION OF DOCUMENTS:

....

Section 6.(b) The President, any Vice President or the Secretary, shall have the power and authority:

- (1) To appoint Attorneys-in-fact, and to authorize them to execute on behalf of the Company bonds and other undertakings, and
- (2) To remove at any time any such Attorney-in-fact and revoke the authority given him.

NATIONAL INDEMNITY COMPANY (BY-LAWS)

Section 4. Officers, Agents, and Employees:

A. The officers shall be a President, one or more Vice Presidents, a Secretary, one or more Assistant Secretaries, a Treasurer, and one or more Assistant Treasurers none of whom shall be required to be shareholders or Directors and each of whom shall be elected annually by the Board of Directors at each annual meeting to serve a term of office of one year or until a successor has been elected and qualified, may serve successive terms of office, may be removed from office at any time for or without cause by a vote of a majority of the Board of Directors, and shall have such powers and rights and be charged with such duties and obligations as usually are vested in and pertain to such office or as may be directed from time to time by the Board of Directors; and the Board of Directors or the officers may from time to time appoint, discharge, engage, or remove such agents and employees as may be appropriate, convenient, or necessary to the affairs and business of the corporation.

NATIONAL INDEMNITY COMPANY (BOARD RESOLUTION ADOPTED AUGUST 6, 2014)

RESOLVED, That the President, any Vice President or the Secretary, shall have the power and authority to (1) appoint Attorneys-in-fact, and to authorize them to execute on behalf of this Company bonds and other undertakings and (2) remove at any time any such Attorney-in-fact and revoke the authority given.

NATIONAL LIABILITY & FIRE INSURANCE COMPANY (BY-LAWS)

ARTICLE IV

Officers

Section 1. Officers, Agents and Employees:

A. The officers shall be a president, one or more vice presidents, one or more assistant vice presidents, a secretary, one or more assistant secretaries, a treasurer, and one or more assistant treasurers, none of whom shall be required to be shareholders or directors, and each of whom shall be elected annually by the board of directors at each annual meeting to serve a term of office of one year or until a successor has been elected and qualified, may serve successive terms of office, may be removed from office at any time for or without cause by a vote of a majority of the board of directors. The president and secretary shall be different individuals. Election or appointment of an officer or agent shall not create contract rights. The officers of the Corporation shall have such powers and rights and be charged with such duties and obligations as usually are vested in and pertain to such office or as may be directed from time to time by the board of directors; and the board of directors or the officers may from time to time appoint, discharge, engage, or remove such agents and employees as may be appropriate, convenient, or necessary to the affairs and business of the Corporation.

NATIONAL LIABILITY & FIRE INSURANCE COMPANY (BOARD RESOLUTION ADOPTED AUGUST 6, 2014)

RESOLVED, That the President, any Vice President or the Secretary, shall have the power and authority to (1) appoint Attorneys-in-fact, and to authorize them to execute on behalf of this Company bonds and other undertakings and (2) remove at any time any such Attorney-in-fact and revoke the authority given.

IV. Bid Schedule

Contact Information

All questions concerning this Request for Bids shall be directed to jamiez@845designgroup.com at (708) 872-4146. Proposals must be submitted in a sealed envelope clearly marked with the title, and opening date on the outside of the envelope, VILLAGE OF WESTERN SPRINGS VILLAGE HALL – TEMPERATURE CONTROL SYSTEM UPGRADES and Bidder's name as follows: Village of Western Springs, Western Springs, IL 60558.

Schedule of Bid Prices

THE UNDERSIGNED SUBMITS HERewith THIS SCHEDULE OF PRICES COVERING THE WORK TO BE PERFORMED UNDER THIS CONTRACT

Bidder, in submitting this proposal, hereby agrees to comply with all provisions and requirements of the specifications and contract documents attached hereto. This proposal shall remain in force and effect for a twelve (12) month period from start date.

BASE BID

Name of Bidder: Air Comfort LLC
Address: 2550 Braga Dr. Broadview, IL 60155
Telephone No. 708-345-1900 Fax No. N/A
Signature: Kevin Kisala
Name and Title: (Please Print) Kevin Kisala, Vice President
Date: 12/17/2024

References

Name of Organization: Lyons Township High School
Year of Contract: 2024
Contact Name: Tim Chromzack
Telephone No: 708-579-6574
Email Address: tchromzack@d204.lths.net

Name of Organization: Nokia
Year of Contract: 2024
Contact Name: Craig Morgan
Telephone No: 331-529-2084
Email Address: craig.morgan.ext@nokia.com

Name of Organization: Cicero School District 99
Year of Contract: 2024
Contact Name: Travis Couch
Telephone No: _____
Email Address: tcouch@cicd99.edu

Name of Organization: Allstate Insurance Corp

Year of Contract: 2024

Contact Name: Steve Thunberg

Telephone No: _____

Email Address: sthunber@allstate.com

Name of Organization: _____

Year of Contract: _____

Contact Name: _____

Telephone No: _____

Email Address: _____

V. Pre-Qualification Process (N/A)

REQUIRED DOCUMENTATION

- **OVERVIEW OF THE COMPANY**
- **THREE YEARS CLEANING GOVERNMENT OR COMMERCIAL ACCOUNTS**
- **FIVE (5) GOVERNMENT OR COMMERCIAL REFERENCES**
- **QUALITY CONTROL/QUALITY ASSURANCE PLAN**
- **INSURANCE DOCUMENTATION**

PRE-QUALIFICATION INFORMATION (N/A)

This will be a Performance Based Contract. This is a one-year contract with four, one-year extension options. The extension option is for a one-year period and is effective if approved by the Village Board.

BASIS OF AWARD (N/A)

The evaluation process for the award of this contract is a **two-step** process consisting of a Request for Qualifications, narrowing the field down to appropriate candidates, and then a Request for Proposals outlining the costs and terms of service.

VI. Contract Provisions

Location

This project is located at the Village Hall located at 740 Hillgrove Avenue, Western Springs, IL 60558.

These specifications are not to be construed as exclusive. It is intended that the services provided by the Contractor include all functions normally considered a part of workmanlike, satisfactory work, whether or not specifically listed herein.

Term

The term of this contract shall be a one calendar year period and ending 365 days after the notice to proceed date, unless the contract is terminated pursuant to the terms herein.

VII. General Specifications

Acceptability of Work

The Village of Western Springs will be sole and final judge of the acceptability of the work to be performed and the services to be rendered under the terms of the Agreement.

Applicable Laws and Regulations

The Vendor agrees to comply with the following laws and to assist the Village in complying with the following laws: the Americans with Disabilities Act (42 U.S.C. 12101 et seq.) and all rules and regulations issued pursuant to the Act. All applicable provisions of Federal, State and local laws, including those regulations in regard to all applicable equal employment opportunity requirements, including without limitation Article 2 of the Illinois Human Rights Act (775 ILCS 5/2-101 et seq.). In addition, the Vendor agrees to comply with all applicable Federal laws and State laws and regulations including, but not limited to, the Illinois Prevailing Wage Act and such laws and regulations relating to minimum wages to be paid to employees, limitations upon the employment of minors, minimum fair wage standards for minors, payment of wages due employees, and health and safety of employees. The Vendor agrees to pay its employees, if any, all rightful salaries, medical benefits, pensions and social security benefits pursuant to applicable labor agreements and Federal and State statutes, and the Vendor further agrees to make all required withholdings and deposits therefor. Such requirements shall be included by the Vendor in all its contracts and agreements with any of its subcontractors. The Parties agree that the most recent of such State and Federal requirements will govern the administration of this Contract at any particular time. Likewise, new State and Federal laws, regulations, policies and administrative practices may be established after the date that this Contract has been executed and may apply to this Contract. The Vendor agrees to maintain full compliance with changing government requirements that govern or apply to its operation. Any complaint of such discrimination received by the Vendor shall be immediately forwarded to the Village. Further, the Vendor certifies that:

- A. The Vendor is the only person/entity interested in the above Contract as the sole principal named herein and that no other person/entity than herein mentioned has any interest in the Contract to be entered into; that this Contract is made without connection with any other person, company or parties submitting qualification information; and that it is in all respects fair and in good faith without collusion or fraud.
- B. The Vendor is not delinquent in the payment of any tax administered by the Illinois Department of Revenue nor is delinquent in the payment of any money owed to the Village.
- C. The Vendor is not barred from contracting with any unit of the State of Illinois or local government, such as the Village, as a result of violating Section 33E-3 or 33E-4 of the Illinois Criminal Code.
- D. The Vendor complies with the Illinois Drug Free Work Place Act.
- E. The Vendor complies with the Equal Employment Opportunity Clause of the Illinois Human Rights Act and the Rules and Regulations of the Illinois Department of Human Rights.
- F. The Vendor complies with the Americans with Disabilities Act.

- G. The Vendor states that any work to be performed by it or its contractors on Village-owned property shall be in a good and workmanlike manner and in accordance with all applicable Federal, State and county laws and regulations and the Village codes, ordinances and regulations, including but not limited to all local zoning ordinances and regulations, and other applicable codes.
- H. The Vendor also agrees to require any subcontractor doing work under this Contract to agree to adhere to the requirements of this Contract.

Assignment

The Contractor shall not assign, transfer, convey, sublet, or otherwise dispose of any award or any or all of its rights, title, or interest therein, without the prior written consent of the Village of Western Springs.

Authority

The Village, as a non-home rule Illinois Municipal Corporation, has the authority to enter into this Contract pursuant to the statutory authority and contracting powers set forth at Article VII (Local Government), Section 7 (Counties And Municipalities Other Than Home Rule Units) and Section 10 (Intergovernmental Cooperation) of the 1970 Illinois Constitution and the Illinois Intergovernmental Cooperation Act (5 ILCS 220/) and the Illinois Municipal Code (65 ILCS 5/).

Bidder Investigations

Before submitting a bid, each bidder shall make all investigations and examinations necessary to ascertain all site conditions and requirements affecting the full performance of the contract and to verify any representations made by the Village of Western Springs upon which the bidder will rely. If the bidder receives an award as a result of its bid submission, failure to have made such investigations and examinations will in no way relieve the bidder from its obligation to comply in every detail with all provisions and requirements of the contract documents, nor will a plea of ignorance of such conditions and requirements be accepted as a basis for any claim whatsoever by the Contractor for additional compensation.

Bonds

If required, Bonds required to guarantee performance and payment for labor and material for the Work shall be in a form acceptable to the Village and shall provide that they shall not terminate on completion of the Work, but shall be reduced to ten percent (10%) of the contract sum upon the date of final payment by the Village for a period of one (1) year to cover a warranty and maintenance period which Vendor agrees shall apply to all material and workmanship for one (1) year from the date of issuance of the final payment by the Village.

Change in Scope of Work

The Village of Western Springs may order changes in the work consisting of additions, deletions, or other revisions within the general scope of the contract. No claims may be made by the Contractor that the scope of the work or of the Contractor's services has been changed, requiring changes to the amount of compensation to the Contractor or other adjustments to

the contract, unless such changes or adjustments have been made by written amendment to the contract approved by the Village Board and the Contractor.

If the Contractor believes that any particular work is not within the scope of contract, is a material change, or will otherwise require more compensation to the Contractor, the Contractor must immediately notify the Village Manager in writing of this belief. If the Village Manager believes that the particular work is within the scope of the contract as written, the Contractor will be ordered to and shall continue with the work as changed and at the cost stated for the work within the scope.

Where change orders, or a series of change orders, authorize or necessitate an increase or decrease in either the cost of the work totaling \$10,000 or more, or the time of completion of the work by thirty (30) days or more, a written determination must be approved by the Village Board and signed by the Village President or his designee stating that the circumstances necessitating the changes in performance were not reasonably foreseeable at the time the Contract was signed or, the change is germane to the Contract or the change order is in the best interests of the Village.

Collusion among Bidders

Each bidder, by submitting a bid, certifies that it is not a party to any collusive action or any action that may be in violation of the Sherman Antitrust Act. Any or all bids shall be rejected if there is any reason for believing that collusion exists among the bidders. The Village of Western Springs may or may not, at its discretion, accept future bids for the same work from participants in such collusion.

More than one bid from an individual, firm, partnership, corporation, or association under the same or different names may be rejected. Reasonable grounds for believing that a bidder has interest in more than one bid for the work being bid may result in rejection of all bids in which the bidder is believed to have interest.

Nothing in this clause shall preclude a firm acting as a subcontractor to be included as a subcontractor for two or more primary Contractors submitting a bid for the work.

Compliance with Freedom Of Information Act Requests

Section 7(2) of the Illinois Freedom of Information Act (FOIA) (5 ILCS 120/7(2)) requires certain records that qualify as "public records," which have been prepared by and are in the possession of a party who has contracted with the Village, be turned over to the Village so that a FOIA requestor can inspect and photocopy the non-exempt portions of the public records pursuant to a FOIA request. The Village has a very short period of time from receipt of a FOIA request to comply with the request, and it requires sufficient time to review the records to decide what information is or is not exempt from disclosure. The Contractor/Consultant acknowledges the requirements of FOIA and agrees to comply with all requests made by the Village for public records (as that term is defined by Section 2(c) of FOIA) in the Contractor/Consultant's possession and to provide the requested public records to the Village within two (2) business days of the request being made by the Village.

The Contractor/Consultant agrees to indemnify and hold harmless the Village from all claims, costs, penalties, losses and injuries (including but not limited to, attorney's fees, other professional fees, court costs and/or arbitration or other dispute resolution costs) arising out of or relating to its failure to provide the public records to the Village under this Agreement.

The Contractor/Consultant acknowledges that certified payroll records submitted to a public body under Section 5(a)(2) of the Prevailing Wage Act are public records subject to inspection and copying in accordance with the provisions of this Act (See 5 ILCS 140/2.10)."

Compliance with Laws; Employment Discrimination

In the performance of its obligations pursuant to this Agreement, the Contractor shall comply with all applicable provisions of federal, state and local law, including those regulations in regard to all applicable equal employment opportunity requirements, including without limitation, Article 2 of the Illinois Human Rights Act (775 ILCS 5/2-101 et seq.). In addition, the Contractor agrees to comply with all applicable federal laws, state laws and regulations including, but not limited to, such laws and regulations relating to minimum wages to be paid to employees, limitations upon the employment of minors, minimum fair wage standards for minors, payment of wages due employees, and health and safety of employees. The Contractor also agrees to require any contractor doing work or performing professional or consulting services in connection with its program or this Agreement to agree to adhere to the requirements of this Section. The Contractor agrees to pay its employees, if any, all rightful salaries, medical benefits, pensions and social security benefits pursuant to applicable labor agreements and federal and state statutes, including the Illinois Prevailing Wage Act, and the Contractor further agrees to make all required withholdings and deposits therefore. Such requirements shall be included by the Contractor in all its contracts and agreements with contractors and subcontractors for this program. The parties agree that the most recent of such state and federal requirements will govern the administration of this Agreement at any particular time. Likewise, new state and federal laws, regulations, policies and administrative practices may be established after the date of the Agreement has been executed and may apply to this Agreement. The Contractor agrees to maintain full compliance with changing government requirements that govern or apply to its operation." In addition, the Contractor agrees to comply with the Americans with Disability Act (42 U.S.C. 12101 et seq.), and all rules and regulations issued pursuant to the Act, there shall be no discrimination on the basis of disabilities (as defined in the Act) in the operation of the services and programs provided by the Contractor hereunder. Any complaint of such discrimination received by the Contractor shall be immediately forwarded to the Village Manager.

The Contractor shall comply with all applicable provisions of the Illinois Human Rights Act including the requirement that the Contractor have on file a written sexual harassment policy.

Contractor Personnel

The Village Manager shall, throughout the life of the contract, have the right of reasonable rejection and approval of employees or subcontractors assigned to the work by the Contractor. If the Village of Western Springs reasonably rejects employees or subcontractors, the

Contractor must provide replacement staff or subcontractors satisfactory to the Village in a timely manner and at no additional cost to the Village. The day-to-day supervision and control of the Contractor's employees and subcontractors is the responsibility solely of the Contractor.

Debarment

By submitting a bid, the bidder certifies that it is not currently debarred from submitting bids for contract issued by any political subdivision or agency of the State of Illinois and that it is not an agent of a person or entity that is currently debarred from submitting bids for contract issued by any political subdivision or agency of the State of Illinois.

Default Clause

A default shall occur under this contract if the Contractor or Village shall not comply with the terms of this contract. The following list is presented as an example only and does not include a listing of all events of default. Omission of an event does not indicate an intent to excuse such an event as an event of default. Examples are, if the Contractor fails to begin work on the date set forth in the contract (unless the Contractor and Village shall agree in writing to a delay in the start of performance), if the Contractor fails to diligently and consistently perform the work once the contract has started (including but limited to, failing to provide enough properly skilled workers; to supply proper material; to make proper payments to subcontractors, or for materials or labor), or otherwise is guilty of a substantial violation of the contract or specifications, then the Village may declare that a default exists under the contract. The Village shall specify the nature of the default in a written notice mailed to the Contractor or delivered to its employee or agent. Upon receipt of said notice, the Contractor shall be liable and shall pay the Village the amount shown in the following schedule of deductions, not as a penalty but as liquidated damages, for each day until the default is corrected. The liquidated damages for default are approximate, due to the impracticality of calculating and proving actual delay costs. This schedule of deductions establishes the cost of delay to account for administration, engineering, inspection, and supervision during periods of extended and delayed performance. The costs of delay represented by this schedule are understood to be a fair and reasonable estimate of the costs that will be borne by the Village during extended and delayed performance by the Contractor of the work, remaining incidental work, correction of work improperly completed, or repair of work damaged as a result of the Contractor. The liquidated damage amount specified will accrue and be assessed until final completion of the total physical work off the contract even though the work may be substantially complete. The Village will deduct these liquidated damages from any monies due or to become due to the Contractor from the Village.

Schedule of Deductions for Each Day of Default Original Contract Amount from more than to and including calendar day

\$0	\$25,000	\$300
\$25,000	\$100,000	\$375
\$100,000	\$500,000	\$550
\$500,000	\$1,000,000	\$725

\$1,000,000	\$2,000,000	\$900
\$2,000,000	\$3,000,000	\$1,100
\$3,000,000	\$5,000,000	\$1,300
\$5,000,000	\$7,500,000	\$1,450
\$7,500,000	And over	\$1,650

If such default is not corrected within seven (7) days after receipt of the notice, the Village may terminate the Contractor's rights under the contract and complete the work by whatever method the Village deems is appropriate. Upon the termination of the contract, the Contractor agrees to promptly and completely remove all equipment and materials from the job site with no damage to the improvements in place and to return all keys to Village buildings, and all employee security passes. In the case of a default, the Contractor shall not be entitled to receive any further payments until the work under the contract has been completed.

Delay

Contractor shall perform the work of this contract expeditiously in cooperation with the Village, its agents, employees and other Contractors and subcontractors. Contractor shall make no claim against Village, and no claim shall be allowed for any damages which may arise out of any delay caused by Village, its agents, employees or other Contractors or subcontractors. Contractor's sole remedy for delay from the Village shall be an extension in the Contract Time.

Entire Agreement

This Contract and its Exhibits contain the entire agreement between the Parties hereto and supersedes any and all prior agreements and understandings, whether written or oral, and whether formal or informal. In addition, this Contract embodies and merges the entire understanding between and among the Parties hereto, and any and all prior correspondence, conversations or memoranda relating to the subject matter stated herein are being merged herein and replaced hereby. This Contract may be modified or amended only by the mutual consent of the Parties and any such modification or amendment must be in writing, signed by the Parties and duly executed, otherwise it is void.

Exceptions

Bidders taking exception to any part or section shall indicate such exceptions on the bid form. Failure to indicate any exception will be interpreted as the bidder's intent to comply fully with the requirements as written. Conditional or qualified bids, unless specifically allowed, shall be subject to rejection in whole or in part.

Expenses Incurred in Preparing Bid

The Village accepts no responsibility for any expense incurred by the bidder in the preparation and presentation of a bid. Such expenses shall be borne exclusively by the bidder.

Failure to Deliver

In the event of failure of the Contractor to deliver services in accordance with the contract terms and conditions, the Village, after due oral or written notice, may procure the services from other sources and hold the Contractor responsible for any resulting additional purchase

and administrative costs. This remedy shall be in addition to any other legal remedies that the Village may have.

Guaranty, Warranties and Representations

- A. The prices for the goods, supplies, equipment and/or services are based on the Vendor's standard pricing schedule, are commercially reasonable and competitive prices for the industry, are not artificially inflated, and do not contain any premium or hidden charges, commitments or other undisclosed obligations.
- B. All Work shall be performed in a good workmanship manner consistent with industry standards and in accordance with the manufacturers' specifications and instructions.
- C. It will exercise the due care and diligence generally associated with the delivery and installation of the goods, supplies, equipment and/or services being provided under this Contract. Due care and diligence shall be applied to all phases of the Vendor's Work.
- D. It is authorized to sell and install the goods, supplies, equipment and/or services.
- E. The goods, supplies, equipment and/or services are of a good quality, fit for their intended use and purpose, and all express or implied warranties of any kind, including the warranty of merchantability, are in full force and effect and have not been waived.
- F. It shall transfer all third party product warranties and guaranties relative to the goods, supplies, equipment and/or services.
- G. In addition to any other third party warranty or guaranty, the Vendor shall provide a minimum one (1) year guaranty relative to any equipment and its components. In the event the Vendor's Invoice/Purchase Order provides for a longer guaranty, the longer guaranty shall control.
- H. The Vendor shall maintain a current, valid Village business license, and the Vendor shall post with the Village and keep on file and in force for the duration of this Contract a contractor's license bond in the amount required by the Village Code.
- I. A written statement containing guaranty for a minimum of one (1) year after final payment or longer for all material and workmanship must be furnished with the bid.

Indemnity/Hold Harmless Provision

To the fullest extent permitted by law, the Contractor hereby agrees to defend, indemnify and hold harmless the Village, its officers, appointed and elected officials, president and trustees, agents, employees, attorneys and volunteers, against all injuries, deaths, loss, damages, claims, patent claims, suits, actions, liabilities of any kind, including, as allowed by law, liabilities incurred due to joint negligence of the Village and the Contractor, judgments, cost and expenses, which may in anyway accrue against the Village, its officers, appointed and

elected officials, president and trustees, agents, employees, attorneys and volunteers, arising in whole or in part or as a consequence of the performance the contract or any part of the work by the Contractor, its employees, agents, or subcontractors, or which may in anyway result therefore, except that arising out of the sole legal cause of the Village, its officers, appointed and elected officials, president and trustees, agents, employees, attorneys and volunteers. The Contractor shall, at its own expense, appear, defend and pay all charges of attorneys and all costs and other expenses arising therefore or incurred in connections therewith, and, if any judgment shall be rendered against the Village, its officers, appointed and elected officials, president and trustees, agents, employees, attorneys and volunteers, in any such action, the Contractor shall, at its own expense, satisfy and discharge the same.

Contractor expressly understands and agrees that any performance bond or insurance policies required by this contract, or otherwise provided by the Contractor, shall in no way limit the responsibility to indemnify, keep and save harmless and defend the Village, its officers, appointed and elected officials, president and trustees, agents, employees, attorneys and volunteers as herein provided.

Independent Contractor

The Vendor is retained by the Village only for the purposes and to the extent set forth in this Contract, and the Vendor's relationship to the Village shall, during the term of this Contract and period of its Work hereunder, be that of an independent contractor based on the following: (a) this Contract is a non-exclusive, independent contractor arrangement; (b) the Vendor, in its discretion, is free to set its schedule regarding the performance of the Work, provided such scheduling and performance of the Work results in the timely and efficient delivery of the Work without interruption of the Village's and its employees' ability to perform their functions and duties; (c) the Vendor will utilize a high level of skill necessary to perform the Work; (d) the Vendor shall not be considered as having Village employee status, nor shall the Village make any deductions or withhold any sums for the payment of any and all applicable Federal, State, local and other taxes, income taxes or FICA taxes; (e) the Vendor shall not be entitled to receive or participate in any employee plans, benefit programs, retirement plans or related employee benefit arrangements or distributions by the Village pertaining to or in connection with any pension or retirement plans, or any other benefits for the regular employees of the Village; (f) the Vendor shall file all necessary tax returns (Federal, State, county and local) and to make such required deductions and pay all income tax, social security, and any and all other taxes due as an independent contractor in its profession; (g) the Vendor is ineligible to file a claim for unemployment compensation benefits or for workers compensation benefits against the Village and agrees not to file any such claims in the event this Contract is terminated or if it or any of its employees are injured performing any Work; (h) the Vendor agrees to assume all risk of death, illness and injury relative to performing any Work under this Contract; (i) the Vendor shall provide all of its own equipment required for the performance of the Work under this Contract; (j) the Vendor shall retain the right to perform services for others during the term of this Contract so long as the Work: (i) is not inconsistent or incompatible with the Vendor's obligations under this Contract; or (ii) does not violate any provisions of this Contract; (k) the Vendor and its employees shall maintain all applicable certifications, licensure and training as required for its area of expertise and promptly provide copies of such documents upon request by the Village; (l) this Contract shall not render the

Vendor, or any its employees, an employee, partner, agent of, or joint venturer with the Village for any purpose; and (m) The Vendor shall comply with the Village's Non-Harassment / Discrimination Policy, a copy of which is incorporated herein by reference.

Insurance Requirements

Contractor shall procure and maintain, for the duration of the contract, insurance written on an "occurrence" basis, against claims for injuries to persons or damages to property, which may arise from or in connection with the performance of the work hereunder by the Contractor, his agents, representatives, employees or subcontractors.

I. MINIMUM SCOPE OF INSURANCE

Coverage shall be at least as broad as:

- A. Insurance Services Office Commercial General Liability occurrence form CG 0001 with the Village, its officers, appointed and elected officials, president and trustees, agents, employees, attorneys and volunteers named as additional insureds, including ISO Additional Insured Endorsement CO 2026, CG 2010; and
- B. Owners and Contractors Protective Liability (OCP) policy with the Village as insured; and
- C. Insurance Service Office Business Auto Liability coverage form number CA 0001 (Ed. 10/90 or newer), Symbol 01 "Any Auto."
- D. Workers' Compensation as required by the Labor Code of the State of Illinois and Employers' Liability insurance.

II. MINIMUM LIMITS OF INSURANCE

Contractor shall maintain limits no less than:

- A. Commercial General Liability: \$1,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage. The general aggregate shall be twice the required occurrence limit. Minimum General Aggregate shall be no less than \$2,000,000 or a contract specific aggregate of \$1,000,000.
- B. Business Automobile Liability: \$1,000,000 combined single limit per accident for bodily injury and property damage.
- C. Workers' Compensation and Employers' Liability: Workers Compensation coverage with statutory limits and Employers' Liability limits of \$1,000,000 per accident.
- D. Excess Liability/Umbrella Coverage: \$2,000,000 per occurrence and in the aggregate.

III. DEDUCTIBLES AND SELF-INSURED RETENTIONS

Any deductibles 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 relative to the Village, its officers, appointed and elected officials, president and trustees, agents, employees, attorneys and volunteers;

or the Contractor shall procure a bond guaranteeing payment of losses and related investigation, claim administration and defense expenses.

IV. OTHER INSURANCE PROVISIONS

The policies are to contain, or be endorsed to contain, the following provisions:

A. General Liability and Automobile Liability Coverages

1. The Village, its officers, appointed and elected officials, president and trustees, agents, employees, attorneys and volunteers are to be covered as specifically listed additional insureds as respects: liability arising out of the Contractor's work, including activities performed by or on behalf of the Contractor; products and completed operations of the Contractor; premises owned, leased or used by the Contractor; or automobiles owned, leased, hired or borrowed by the Contractor. The coverage shall contain no special limitations on the scope of protection afforded to the Village, its officers, appointed and elected officials, president and trustees, agents, employees, attorneys and volunteers.
2. The Contractor's insurance coverage shall be primary as respects the Village, its officers, appointed and elected officials, president and trustees, agents, employees, attorneys and volunteers. Any insurance or self- insurance maintained by the Village, its officers, appointed and elected officials, president and trustees, agents, employees, attorneys and volunteers shall be excess of Contractor's insurance and shall not contribute with it.
3. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the Village, its officers, appointed and elected officials, president and trustees, agents, employees, attorneys and volunteers.
4. The Contractor's insurance shall contain a Severability of Interests/Cross Liability clause or language stating that Contractor's insurance shall apply separately to each insured against whom the claim is made or suit is brought, except with respect to the limits of the insurer's liability.
5. If any commercial general liability insurance is being provided under an excess or umbrella liability policy that does not "follow form," then the Contractor shall be required to name the Village, its officers, appointed and elected officials, president and trustees, agents, employees, attorneys and volunteers as additional insureds. A copy of the actual additional insured endorsement shall be provided to the Village.

B. Workers' Compensation and Employers Liability Coverage

The insurer shall agree to waive all rights of subrogation against the Village, its officers, officials, trustees, agents, employees and volunteers for losses arising from work performed by Contractor for the municipality.

C. All Coverages

Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, cancelled, reduced in coverage or in limits except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the Village Manager at the Village's principle office address.

V. ACCEPTABILITY OF INSURERS

Insurance is to be placed with insurers with a Best's rating of no less than A-, VII and licensed to do business in the State of Illinois.

VI. VERIFICATION OF COVERAGE

Contractor shall furnish the Village with certificates of insurance naming the Village, its officers, appointed and elected officials, president and trustees, agents, employees, attorneys and volunteers as additional insureds, and with original endorsements affecting 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. The Contractor's Public Liability Insurance shall be written on the Comprehensive form and shall include Contractual Liability, Products and Completed Operations, and Automobile Liability, all to the limits state above. Comprehensive Liability Insurance shall specifically include coverage for Independent Contractors and for both Hired and Non-Owned Automobiles. The insurance shall apply to all activities including spray-painting operations. The Village reserves the right to request full certified copies of the insurance policies and endorsements.

VII. SUBCONTRACTORS

Contractor shall include all subcontractors as insured under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.

VIII. ASSUMPTION OF LIABILITY

The Contractor assumes liability for all injury to or death of any person or persons including employees of the Contractor, any sub-contractor, 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.

IX. NO PERSONAL LIABILITY.

No appointed official, agents, attorneys, employees, volunteers and representatives of the Village or any of its local government members shall be personally liable, in law or in contract, to the Vendor as the result of the execution of this Contract. Notwithstanding any provision in this Contract to the contrary, the operation of this Section 15 shall survive the termination of this Contract.

Law and Venue

This Agreement provides for services to be performed within the State of Illinois. Accordingly, this Agreement, and all questions of interpretation, maintenance and enforcement hereof, and all controversies hereunder, shall be governed by the applicable statutory and common law of the State of Illinois. The parties agree that for the purpose of any litigation relative to this Agreement and its enforcement, venue shall be in the Circuit Court of Cook County, Illinois and the parties' consent to the in person and jurisdiction of said Court for any such action or proceeding.

Non-appropriation

All funds for payment by the Village under this contract are subject to the availability of an annual appropriation for this purpose by the Village. In the event of non-appropriation of funds by the Village for the services provided under the contract, the Springs will terminate the contract, without termination charge or responsibility for or obligation to the Contractor or for damages or other liability, on the last day of the then-current fiscal year for the services covered by this contract is spent, whichever event occurs first. If at any time funds are not appropriated for the continuance of this contract, cancellation shall be accepted by the Contractor on thirty days' prior written notice, but failure to give such notice shall be of no effect and the Village shall not be obligated under this contract beyond the date of termination.

Oral Statements

No oral statement of any person shall modify or otherwise affect the terms, conditions, or specifications stated in this contract. All modifications to the contract must be made in writing by the Village of Western Springs in the form of addenda which shall be mailed to all those that have picked up bid specifications and be made available to the public.

Permits, Licenses

The Contractor shall procure and pay for all permits and licenses necessary for the performance of the work, and/or required federal, state, county, and Village regulations and laws.

Protection and Restoration of Property

The Contractor shall take all necessary precautions for the protection of corporate or private property. The Contractor is responsible for the damage or destruction of real or personal property resulting from neglect, misconduct or omission in his manner or method of execution or non-execution of the work, or caused by defective work or the use of unsatisfactory materials, and such responsibility shall not be released until the work shall have been completed, accepted, and the requirements of the specifications complied with as determined by the Village.

Whenever public or private property is so damaged or destroyed, the Contractor shall, at its own expense, restore such property to a condition equal to that existing before such damage or injury was done by repairing, rebuilding or replacing it as may be directed, or he shall otherwise make good such damage or destruction in an acceptable manner. If the Contractor fails to do so, the Village may, after the expiration of a period of 48 hours after giving notice in writing, proceed to repair, rebuild or otherwise restore such property as may be deemed necessary and, in addition to any other remedy, the cost thereof shall be deducted from any compensation due, or which may become due, under the contract.

References

A list of current references for jobs of similar size and scope must be submitted and included with the bid. A minimum of five (5) shall be required. Please fill out reference sheet in the Schedule of Bid Prices section of this document.

Renewal of Contract

Upon written agreement of both parties at least **THIRTY (30)** days prior to anniversary date of the contract, this contract may be renewed by the Village of Western Springs for a period of **FOUR (4)** successive one-year period(s) under the same prices, terms, and conditions as in the original contract.

Responsibility for Work

The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the work. The Contractor shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury or loss to:

- (a) All employees on the work and other persons who may be affected thereby;
- (b) All the work and all materials or equipment to be incorporated therein, whether in storage on or off the site; and
- (c) Other property at the site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation, maintenance or replacement in the course of work.

The Contractor shall be responsible for complying with all applicable laws, ordinances, rules, regulations, and orders of any public body having jurisdiction for the safety of persons or property or to protect them from damage, injury, or loss. The Contractor shall be responsible for erecting and maintaining as required by the conditions and progress of the work, all necessary safeguards for its safety and protection. The Contractor shall notify owners of adjacent utilities when performance of the work may affect them. All damage, injury or loss to any property referred to in paragraph (a) or (b) caused, directly or indirectly, in whole or in part, by Contractor, any subcontractor or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, shall be remedied by the Contractor. Contractor's duties and responsibilities for the safety and protection of the work shall continue until such time as all the work is completed and accepted by the Village.

Right to Audit

The Contractor shall maintain such financial records and other records as may be prescribed by the Village of Western Springs or by applicable federal and state laws, rules, and regulations. The Contractor shall retain these records for a period of five years after final payment, or until they are audited by the Village, whichever event occurs first. These records shall be made available during the term of the contract and the subsequent three-year period for examination, transcription, and audit by the Village, its designees, or other authorized bodies.

Severability

In the event any term or provision of this Contract shall be held illegal, invalid, unenforceable or inoperative as a matter of law, the remaining terms and provisions of this Contract shall not be affected thereby, and each such term and provision shall be valid and shall remain in full force and effect.

Smoking Policies

All Contractors, their subcontractors, employees and agents are required to abide by the smoking policies in effect in all municipal buildings owned, leased, or operated by the Village. Failure to abide by these regulations is a violation of this contract; and in addition may subject the violator to civil penalties as prescribed in State law.

Successors/Assigns

This Contract shall ensure to the benefit of and shall be binding upon the transferees, assigns, representatives, owners, insurers, agents, servants, employees, administrators and/or successors in interest of any kind whatsoever of the parties hereto. This Contract and the obligations it impose upon the Contractor are not transferable by Contractor without the written consent of the Village, which may or may not be granted in its exclusive discretion.

Taxes, Benefits and Royalties

The Village of Western Springs is a public body and is exempt from all sales, excise and use taxes and the Village shall supply its sales tax number to the Contractor for its use where appropriate. Each payment by the Village to the Vendor includes all applicable Federal, State and local taxes, fees, surcharges, license fees and tariffs of every kind and nature applicable to the Work, as well as all taxes, contributions, premiums, costs, royalties and fees arising from the use of, or the incorporation into, the Work of patented or copyrighted equipment, materials, supplies, tools, appliances, devices, processes or inventions. All claims or rights to claim additional compensation by reason of the payment of any such tax, contribution, premium, cost, royalty or fee are hereby waived and released by the Vendor.

Termination

If the contract is terminated by a default of the Contractor the Village shall pay the Contractor any amount due for actual, completed and accepted work, and the Village shall not be obligated to pay the Contractor any more money.

Unnecessarily Elaborate and Unresponsive Submittals

Unnecessarily elaborate brochures or other presentations beyond those sufficient to present a complete and effective response to the solicitation are not desired and may be construed as an indication of the bidder's lack of responsiveness. Further, if the format of the bidder's submittal is prescribed in the bid documents and the bidder fails to follow that format, this may be construed as an indication of the bidder's lack of responsiveness.

Waivers of Lien

The Village requires for each application for payment a properly completed Contractor's Affidavit setting out, under oath, the name, address and amount due or to become due, of each subcontractor, vendor or party included in that payment. For every party listed, the Contractor shall also provide a full or partial waiver of lien, as appropriate, before a payment will be made to the Contractor. The Contractor's partial or final waiver of lien must be included. Payment Certificates shall not be issued without such mechanics' lien waivers and Contractor's sworn statements unless they are conditioned upon receipt of such waivers and statements.

If the rate of progress is satisfactory to the Village, payment requests will be submitted by the Vendor to the Village once a month during the progress of the Work for ninety percent (90%) of the value of the work done and in place at the date of the preparation of the payment estimate. Payment will be made to the Vendor once all required waivers of lien for material suppliers and subcontractors have been submitted to the Village. The waivers of lien will be for the amount of the current payment estimate, except for the final estimate where the waivers of lien shall be for the total contract amount. Pursuant to the provisions of Section 5 of the Mechanics' Lien Act of Illinois, prior to making any payment on this Contract the Village demands that the Vendor furnish a written statement of the names of all parties furnishing labor and/or materials under this Contract and the amounts due or to become due on each. This statement must be made under oath or be verified by an affidavit. Final payment shall not be issued by the Village nor shall any retained percentage become due until releases and waivers of lien have been supplied as the Village designates.

The Contractor will indemnify and save the Village, its officers, appointed and elected officials, president and trustees, agents, employees, attorneys and volunteers harmless from all claims growing out of the lawful demands of subcontractors, laborers, workers, mechanics, material men, and furnishers of machinery and parts thereof, equipment, tools, and all supplies, incurred in the furtherance of the performance of the work. The Contractor shall, at the Village's request, furnish satisfactory evidence that all obligations of the nature designated above have been paid, discharged, or waived. If the Contractor fails to do so the Village may, after having notified the Contractor, withhold from the Contractor's unpaid compensation a sum of money deemed reasonably sufficient to pay any and all such lawful claims until satisfactory evidence is furnished that all liabilities have been fully discharged whereupon payment to the Contractor shall be resumed in accordance with the terms of the contract documents.

The Village shall have the right to enter the premises for the purposes of doing work not covered by the contract. This provision shall not be construed as relieving the Contractor of the sole responsibility for the care and protection of the work, or the restoration of any damage work except such as may be caused by agents or employees of the Village.

Contractor's Drug-Free Workplace Certification

Pursuant to Illinois Compiled Statutes, Chapter 30, Act 580 et. seq. ("Drug-Free Workplace"), the undersigned Contractor hereby certifies to the contracting agency that it will provide a drug-free workplace by:

- (A) Publishing a statement:
 - (1) Notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance, including cannabis, is prohibited in the grantee's of Contractor's workplace.
 - (2) Specifying the actions that will be taken against employees for violations of such prohibition.
 - (3) Notifying the employee that, as a condition of employment on such contract or grant, the employee will:
 - (a) Abide by the terms of the statement; and
 - (b) Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction.
- (B) Establishing a drug free awareness program to inform employees about:
 - (1) The dangers of drug abuse in the workplace;
 - (2) The grantee's or Contractor's policy of maintaining a drug-free workplace
 - (3) Any available drug counseling, rehabilitation, and employee assistance program; and
 - (4) The penalties that may be imposed upon employees for drug violations.
- (C) Making it a requirement to give a copy of the statement required by subsection (a) to each employee engaged in the performance of the contract or grant and to post the statement in a prominent place in the workplace.
- (D) Notifying the contracting agency within ten (10) days after receiving notice under part (b) of paragraph (3) of subsection (a) from an employee or otherwise receiving actual notice of such conviction.
- (E) Imposing a sanction on, or requiring the satisfactory participation in a drug assistance or rehabilitation program by any employee who is so convicted, as required by Illinois Compiled Statutes, Chapter 127, Act 580, Paragraph 5.

- (F) Assisting employees in selecting a course of action in the event drug counseling treatment and rehabilitation is required and indicating that a trained referral team is in place.
- (G) Making a good faith effort to continue to maintain a drug-free workplace through implementation of this Section.

Failure to abide by this certification shall subject the Contractor to the penalties provided in Illinois Compiled Statutes, Chapter 30, Act 580, Paragraph 6.

Air Comfort
Contractor
Date: 12/19/24

Attest [Signature]

**Contractor's Certification Regarding
Non-Payment of Compensation**

Air Comfort/Applied Controls hereby certifies that neither it nor any of its affiliated companies, nor any of its agents, employees or representatives offered or paid any type of compensation or commission to any third party, including any official of the Village of Western Springs, Illinois, to influence the Village of Western Springs.

Air Comfort
Contractor

DATED: 12/19/24

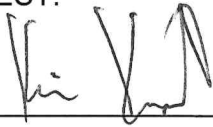
ATTEST:


Exhibit A

Agreement

This Agreement (the "Agreement") made this the ___ day of _____ in the year 2024 by and between the Village of Western Springs, Illinois, 740 Hillgrove Avenue, Western Springs, Illinois, 60558 (the "Village") and _____ (the "Contractor"). The Village and the Contractor are at times referred herein, individually, as the "Party" and, collectively, as the "Parties".

The Village and Contractor agree as set forth below:

1. For the financial consideration hereinafter set forth, the Contractor agrees to furnish and provide and install all commercially necessary labor, materials, equipment and services and to do all other activities commercially required (the "Work") to complete the Village of Western Springs Village Hall – Temperature Control System Upgrade as set forth in the contract requirements, a copy of which is attached here to as exhibit 1 dated 12.05.2024, and as agreed to in the Contractor's Proposal dated 12.19.2024.
2. The Contractor agrees to commence the Work on or before **February 2025**, and will officially, diligently, and expeditiously conduct the Work in a commercially reasonable manner so as to assure completion by **April 2025**.
3. The Village shall pay the Contractor for the performance of the Work to complete the Village of Western Springs Village Hall – Temperature Control System Upgrades a total dollar amount not to exceed _____ in accordance with the Contractor's Proposal dated **December 19, 2024**, subject to further additions and deductions as may be agreed upon in accordance with the terms of the contract documents. Payment shall be made monthly however, the financial payments and any penalties associated with late payments due under the Contract shall be paid by the Village only in accordance with the provisions of the Local Government Prompt Payment Act (50 ILCS 505/).
4. The Contractor represents and warrants that it will comply with the applicable state and federal laws concerning prevailing wage rates and all applicable state and federal laws and requirements concerning equal opportunities.
5. This Agreement shall consist of, incorporate and include each of the following contract documents, whether attached hereto or incorporated by reference herein:
 - A. Legal Notice (Advertisement for Bid) published on **December 5, 2024**.
 - B. Instructions to Bidders dated **December 5, 2024**.
 - C. Contractor's Proposal dated **December 19, 2024**.

- D. Contractor's bid bond submitted by _____ in the amount of \$_____ dated **December 19, 2024**.
 - E. General Specifications and all additional provisions **December 5, 2024**.
 - F. Contractor's Drug Free Workplace Certification dated **December 19, 2024**.
 - G. Contractor's Certification Regarding Non-Payment of Compensation dated **December 19, 2024**.
 - H. Exhibit B - Contractor certifications including Certification of Eligibility to Enter into Public Contracts.
 - I. Exhibit C – Change Order Form
 - J. Required Performance and Payment Bonds provided by the Contractor.
 - K. Required Insurance Certificates provided by the Contractor.
 - L. Rider to Contract- General Conditions
6. Notice to Proceed With the Work. The Vendor shall commence work under this Contract upon issuance of written Notice to Proceed and the duration of the contract shall be one year or as otherwise stated with a completion date.
 7. Independent Contractor Status; Reporting. The Vendor is an IRS Form 1099 independent contractor and not an employee of the Village. To comply with the employer reporting requirements of Public Act 103-0343 (amendments to the Illinois Unemployment Insurance Act regarding the Directory of New Hires, 820 ILCS 405/1801.1), upon execution of this Contract, the Village shall submit the Vendor's name and required information to the Illinois Department of Employment Security.
 8. Effective Date. After this Contract has been signed by the Vendor, this Contract shall be deemed dated and become effective on the date that the Village President or the Village Manager signs this Contract.

EXCEPTIONS TO THIS BID (THIS PAGE
MUST ACCOMPANY BID)

All of the contract documents are a part of this Agreement as if attached hereto or repeated herein.

IN WITNESS WHEREOF, the signatories below, pursuant to properly issued authority, have signed this Contract, which shall become effective on the date that the Village President or Village Manager signs this Contract.

Contractor: Village of Western Springs

By: _____
(Name and Title)

By: _____
Heidi Rudolph, Village President

*Corporate Seal of corporation

*Village Seal

Attest:

By: _____
(Name and Title)

By: _____
Ed Tymick, Village Clerk

EXHIBIT B

**CERTIFICATION OF ELIGIBILITY TO ENTER INTO PUBLIC CONTRACTS
BY THE CONTRACTOR**

I, _____, having being first

duly sworn, depose and state that I am the

(insert "sole owner "partner", "president", " other" proper title)

and the authorized agent of _____, which has submitted a proposal to, and is entering into a contract with, the Village of Western Springs for the performance of work in relation to the _____ Project in the Village of Western Springs, and certifies on behalf of said company as follows:

1. The company is not barred from contracting with the Village as a result of a violation of either Section 33E-3, or 33E-4 of the Illinois Criminal Code, or of any similar offense of "bid-rigging" or "bid-rotating" of any state or of the United States.
2. The company shall comply with all applicable provisions of the Illinois Human Rights Act and has a written sexual harassment policy in full compliance with that Act.
3. The company is not delinquent in the payment of any tax administered by the Illinois Department of Revenue or,
 - a. is contesting such liability or the amount of tax in accordance with procedures established by the appropriate revenue act, or
 - b. has entered into an agreement with the Department of Revenue for payment of all taxes due and is in compliance with that agreement.
 - c. Not in default, as defined in 5 ILCS 385/2, on an educational loan, as defined in 5 ILCS 385/1.
4. In compliance with the Veterans Preference Act (330 ILCS 55/).
5. In compliance with equal employment opportunities and, during the performance of the Agreement, the Contractor shall:
 - a. Not discriminate against any employee or applicant for employment because of race, color, religion, sex, marital status, national origin or ancestry, age, physical or mental handicap unrelated to ability, or an unfavorable discharge from military service; and further that it will examine all job classifications to determine if minority persons or women are underutilized and will take appropriate affirmative action to rectify any such underutilization.

- b. If it hires additional employees in order to perform the Agreement or any portion hereof, it will determine the availability (in accordance with the Illinois Department of Human Rights Rules and Regulations) of minorities and women in the area(s) from which it may reasonably recruit and it will hire for each job classification for which employees are hired in such a way that minorities and women are not underutilized.
 - c. In all solicitations or advertisements for employees placed by it or on its behalf, it will state that all applicants will be afforded equal opportunity without discrimination because of race, color, religion, sex, marital status, national origin or ancestry, age, physical or mental handicap unrelated to ability, or an unfavorable discharge from military service.
 - d. Send to each labor organization or representative of workers, with which it has or is bound by a collective bargaining or other agreement or understanding, a notice advising such labor organization or representative of the Contractor's obligations under the Illinois Human Rights Act and the Department's Rules and Regulations. If any such labor organization or representative fails or refuses to cooperate with the Contractor in its efforts to comply with such Act and Rules and Regulations, the Contractor will promptly so notify the Illinois Department of Human Rights and the VILLAGE and will recruit employees from other sources when necessary to fulfill its obligations thereunder.
 - e. Submit reports as required by the Illinois Department of Human Rights, Rules and Regulations, furnish all relevant information as may from time to time be requested by the Department or the contracting agency, and in all respects comply with the Illinois Human Rights Act and the Department's Rules and Regulations.
 - f. Permit access to all relevant books, records, accounts, and work sites by personnel of the contracting agency and the Illinois Department of Human Rights for purposes of investigation to ascertain compliance with the Illinois Human Rights Act and the Department's Rules and Regulations.
 - g. Not maintain or provide for its employees any segregated facilities at any of its establishments, and not permit its employees to perform their services at any location, under its control, where segregated facilities are maintained. As used in this section, the term "segregated facilities" means any waiting rooms, work areas, restrooms and washrooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, creed, color or national origin because of habit, local custom or otherwise.
- 6. In compliance with 775 ILCS 5/2-105(A)(4) by having in place and enforcing a written sexual harassment policy.
 - 7. In agreement that, in the event of non-compliance with the provisions of this certification relating to equal employment opportunity, the Illinois Human Rights Act or the Illinois Department of Human Rights, Rules and Regulations, the Contractor may be declared ineligible for future contracts with the VILLAGE, and the Agreement may be canceled or

voided in whole or in part, and such other sanctions or penalties may be imposed or remedies invoked as provided by statute or regulation.

8. In compliance with the requirements of 30 ILCS 580/ (Drug Free Workplace Act).
9. The Contractor and its officers, employees and agents agree not to commit unlawful discrimination and agree to comply with all applicable provisions of the Illinois Human Rights Act, Title VII of the Civil Rights Act of 1964, as amended, the Americans with Disabilities Act, the Age Discrimination in Employment Act, Section 504 of the Federal Rehabilitation Act, and all applicable rules and regulations. The Contractor certifies that it is an "Equal Opportunity Employer" as defined by federal and State laws and regulations, and agrees to comply with the Illinois Department of Human Rights ("IDHR") Equal Opportunity Employment clause as required by the IDHR's Regulations (44 Ill. Adm. Code, Part 750, Appendix A). As required by Illinois law and IDHR Regulation, the Equal Opportunity Employment clause is incorporated by reference in its entirety as though fully set forth herein. The Contractor certifies that it agrees to comply with the Prohibition of Segregated Facilities clause, which is incorporated by reference in its entirety as though fully set forth herein. See, Illinois Human Rights Act (775 ILCS 5/2-105). See also, Illinois Department of Human Rights Rules and Regulations, Title 44, Part 750. Administrative Code, Title 44: Government Contracts, Procurement and Property Management, Subtitle B: Supplemental Procurement Rules, Chapter X: Department of Human Rights, Part 750: Procedures Applicable to All Agencies, Section 750.160: Segregated Facilities (44 Ill. Adm. Code 750.160)

By: _____
Name: _____
Title: Authorized Agent of Contractor

Subscribed and Sworn To
Before Me This _____ Day
Of _____, 2024.

Notary Public

Notary Public

Exhibit C

CHANGE ORDER NO.:

Owner:
 Engineer:
 Contractor:
 Project:
 Contract Name:
 Date Issued:

Owner's Project No.:
 Engineer's Project No.:
 Contractor's Project No.:

The Contract is modified as follows upon execution of this Change Order:
 Description:
 Attachments:

Change in Contract Price	Change in Contract Times [State Contract Times as either a specific date or a number of days]
Original Contract Price: \$ _____	Original Contract Times: Substantial Completion: _____ Ready for final payment: _____
[[Increase] [Decrease] from previously approved Change Orders No. 1 to No. [Number of previous Change Order] : \$ _____	[[Increase] [Decrease] from previously approved Change Orders No.1 to No. [Number of previous Change Order] : Substantial Completion: _____ Ready for final payment: _____
Contract Price prior to this Change Order: \$ _____	Contract Times prior to this Change Order: Substantial Completion: _____ Ready for final payment: _____
[[Increase] [Decrease] this Change Order: \$ _____	[[Increase] [Decrease] this Change Order: Substantial Completion: _____ Ready for final payment: _____
Contract Price incorporating this Change Order: \$ _____	Contract Times with all approved Change Orders: Substantial Completion: _____ Ready for final payment: _____

Recommended by Engineer (if required)

By: _____
 Title: _____
 Date: _____

By: _____
 Title: _____
 Date: _____

Accepted by Contractor

Approved by Funding Agency (if applicable)



AGENDA ITEM SUMMARY

FINANCE COMMITTEE

Finance Committee: February 6, 2025

AGENDA ITEM D.3.

To: Finance Committee

From: John Mastandona, Director of Finance

CC: Ellen Baer, Village Manager, Brian Scott, Director of Fire and EMS

RE: EMS/MC Billing Services Agreement

Recommendation

Consider a recommendation to approve an agreement with EMS Management & Consultants, Inc. to provide billing services for emergency medical services.

Summary

The Village has historically used Andres Medical Billing for its billing services related to emergency medical services. The vendor has recently changed ownership, which requires a new billing services agreement to be entered into.

Financial Impact

Account 5103100-55112

Fund General Fund

2025 Budget \$16,500

Project Cost As required

Recommended Motion

I move to approve the agreement with EMS Management & Consultants, Inc

Strategic Plan Alignment

Financial Sustainability

File Attachments

1. Agreement between EMS_MC and the Village of Western Springs Contract for Billing Services and its Exhibit A , Business Partner A

BILLING SERVICES AGREEMENT

THIS BILLING SERVICES AGREEMENT (hereinafter "Agreement"), is entered into this _____ day of _____ 2025, between EMS MANAGEMENT & CONSULTANTS, INC. (hereinafter "EMS|MC") and the VILLAGE OF WESTERN SPRINGS, (hereinafter "Client").

WITNESSETH:

WHEREAS, EMS|MC is an ambulance billing service company with experience in providing medical billing and collection services to medical transport providers, including fire and rescue and emergency medical service (EMS) providers; and

WHEREAS, Client, the Village of Western Springs, Illinois ("Village" or "Client"), is an Illinois Municipal Corporation normally engaged in the business of providing emergency medical services, and billable medical transportation services; and

WHEREAS, Client wishes to retain EMS|MC to provide medical billing, collection and related services as set forth in this Agreement.

NOW, THEREFORE, in consideration of the mutual agreements described below and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the parties agree as follows:

1. ENGAGEMENT.

a. During the term of this Agreement, EMS|MC shall provide routine billing, bill processing and fee collection services reasonably required and customary for service providers of similar size and situation to Client (the "Revenue Cycle Management Services" or "RCM Services"). The RCM Services shall include: (1) preparing and submitting initial and secondary claims and bills for Client to insurers and others responsible for payment; (2) performing reasonable and diligent routine collection efforts to secure payments from primary and secondary payers and patients or other entities, (as EMS|MC, in its sole discretion deems appropriate); (3) issuing up to three patient statements for all unpaid balances; and (4) referring accounts which have not been collected during EMS|MC normal billing cycle to an outside collection agency if so directed by Client.

b. Collectively, the RCM Services that EMS|MC provides to Client shall be referred to as the "Services".

2. EMS|MC Responsibilities.

a. EMS|MC will provide the RCM Services in material compliance with all applicable local, state and federal laws, ordinances and regulations.

b. EMS|MC will submit all “Completed Claims” to the applicable third-party payer. A “Completed Claim” is a claim for emergency medical services and billable medical transportation services that (i) is received by EMS|MC and supported by an ePCR record that contains all necessary and accurate information; (ii) has been reviewed and any identified issues sent to Client for remediation have been rectified; (iii) is for a patient encounter that has been electronically signed off by Client in the ePCR; (iv) has been reviewed by Client and deemed ready for billing; and (v) is not subject to a billing hold. EMS|MC will not have any responsibility for any adverse impact to Client that may result from any delay of Client in completing claims caused by the affirmative act or inaction of Client.

c. Accounts with outstanding balances after the insurance and/or third-party payer has determined benefits due will be billed by EMS|MC to the patient. EMS|MC will send up to three patient statements to the patient or responsible party, except as to those accounts on which an insurance carrier or third-party payer has accepted responsibility to pay. Once Client has submitted all necessary information, EMS|MC will bill all uninsured patients directly.

d. Within ten (10) business days of the last business day of the month, EMS|MC will provide to Client a month end report, which shall include an account analysis report, aging report and accounts receivables reconciliation report for the previous month. Deposit reports will be provided daily.

e. During the term of this Agreement, EMS|MC shall maintain, provide appropriate storage and data back-up for all billing records pertaining to the RCM Services provided by EMS|MC hereunder. Upon at least two (2) business days’ prior written notice, EMS|MC shall make such records accessible to Client during EMS|MC business hours. EMS|MC acknowledges that Client is a unit of local government subject to the Illinois Freedom of Information Act (FOIA) (5 ILCS 140/ *et seq.*). EMS|MC will cooperate fully with Client to facilitate compliance with any FOIA request. Upon termination of this Agreement, trip data pertaining to the RCM Services shall be returned to Client. Notwithstanding anything to the contrary herein, Client acknowledges and agrees that EMS|MC is not a custodian of clinical records nor a clinical records repository. Client is responsible for maintaining all clinical records in accordance with Section 3(d).

f. EMS|MC shall notify Client of (i) all patient complaints about clinical services within five (5) business days of receipt; (ii) all patient complaints about billing within ten (10) business days of receipt; and (iii) all notices of audit, requests for medical records or other contacts or inquiries out of the normal course of business from representatives of Medicare, Medicaid or private payers with which Client contracts or any law enforcement or government agency ("Payer Inquiries") within ten (10) business days of receipt, unless such agency prohibits EMS|MC from disclosing its inquiry to Client.

g. EMS|MC will reasonably assist Client in responding to Payer Inquiries which occur in the normal course of Client's business and arise from EMS|MC's provision of the Services. If EMS|MC, in its sole discretion, determines that (i) Client is frivolously utilizing EMS|MC's assistance in responding to Payer Inquiries,; or (ii) a Payer Inquiry does not arise from the Services provided by EMS|MC, EMS|MC may charge Client, and Client shall pay, for any assistance provided by EMS|MC at EMS|MC's then current hourly rates.

h. EMS|MC is appointed as the agent of Client under this Agreement solely for the express purposes of this Agreement relating to billing and receiving payments and mail, receiving and storing documents, and communicating with hospitals and other entities to facilitate its duties. EMS|MC will have no authority to pledge credit, contract, or otherwise act on behalf of Client except as expressly set forth herein.

i. As to all payments received from Medicare, Medicaid and other government funded programs, the parties specifically acknowledge that EMS|MC will only prepare claims for Client and will not negotiate checks payable or divert electronic fund transfers to Client from Medicare, Medicaid or any other government funded program. All Medicare, Medicaid and any other government funded program payments, including all electronic fund transfers, will be deposited directly into a bank account designated by Client to receive such payments and as to such account only Client, through its officers and directors, shall have access.

j. The Services provided by EMS|MC to Client under this Agreement are conditioned on Client's fulfillment of the responsibilities set forth in this Agreement.

k. EMS|MC shall have no responsibility to provide any of the following services:

- i. Determining the accuracy or truthfulness of documentation and information provided by Client;
- ii. Providing services outside the EMS|MC billing system;

- iii. Submitting any claim that EMS|MC believes to be inaccurate or fraudulent; or
- iv. Providing any service not expressly required of EMS|MC by this Agreement.

I. For Client's service dates that occurred prior to the mutually agreed go live date for the Services, Client agrees and understands that EMS|MC is not responsible for any services including, but not limited to, submitting claims or managing any denials, refunds or patient calls. As between Client and EMS|MC, Client is fully responsible for the proper billing and accounting of any remaining balances related to service dates that occurred prior to such go live date.

3. RESPONSIBILITIES OF CLIENT. The following responsibilities of Client are a condition of EMS|MC's services under this Agreement, and EMS|MC shall have no obligation to provide the Services to the extent that Client has not fulfilled these responsibilities:

a. Client will pay all agreed amounts owed to EMS|MC under this Agreement. EMS|MC shall not condition Services or refuse to provide additional services based on an outstanding amount disputed by Client in good faith, as provided in Section 5(c) below.

b. Client will implement standard commercially reasonable actions and processes as may be requested by EMS|MC from time-to-time to allow EMS|MC to properly and efficiently provide the RCM Services. These actions and processes include, but are not limited to, the following:

- i. Providing EMS|MC with complete and accurate demographic and charge information necessary for the processing of professional and/or technical component billing to third parties and/or patients including, without limitation, the following: patient identification (name, address, phone number, birth date, gender); guarantor identification and address; insurance information; report of services; special claim forms; pre-authorization numbers; and such additional information as is requested by EMS|MC;
- ii. Providing EMS|MC with complete and accurate medical record documentation for each incident or patient service rendered for reimbursement, which is necessary to ensure proper billing and secure claim payment;

- iii. Providing EMS|MC, in a timely manner, with Patient Care Reports (PCRs) that thoroughly detail the patient's full medical condition at the time of service and include a chronological narrative of all services and treatment rendered;
- iv. Obtaining authorizations and signatures on all required forms, including consent to treat, assignment of benefits, release of information and claims;
- v. Obtaining physician certification statements (PCS) forms for all non-emergency transports and other similar medical necessity forms or prior authorization statements as deemed necessary by the payer;
- vi. Obtaining or executing all forms or documentation required by Medicare, Medicaid, CHAMPUS, and any other payer or insurance carriers to allow EMS|MC to carry out its billing and other duties under this Agreement; and
- vii. Implementing reasonable and customary charges for complete, compliant billing.

c. Client represents and warrants that the PCR and any and all associated medical records, forms and certification statements provided to EMS|MC are true and accurate and contain only factual information observed and documented by the attending field technician during the course of the treatment and transport.

d. Client shall maintain Client's own files with all original or source documents, as required by law, and only provide to EMS|MC copies of such documents. Client acknowledges that EMS|MC is not the agent of Client for storage of source documentation.

e. Client will provide EMS|MC with a copy of any existing billing policy manuals or guidelines, Medicare or Medicaid reports, or any other record or document related to services or billing of Client's accounts.

f. Client will report to EMS|MC within ten (10) business days of payments received directly by Client, and promptly notify EMS|MC of any cases requiring special handling or billing. Client shall timely advise EMS|MC of any Payer Inquiries.

g. Client shall ensure that any refunds posted by EMS|MC are actually issued and paid to the patient, insurer, or other payer as appropriate.

h. Client agrees to provide EMS|MC with administrative access to the ePCR system or similar access in order to run reports and review documents and attachments to better service Client's account.

i. Client shall provide EMS|MC with access to its facilities and personnel for the purpose of providing on-site and/or online training to such personnel. Client shall cooperate with EMS|MC and facilitate any training that EMS|MC and the Village mutually agree are required trainings as set forth in subsection (j) below.

j. Client shall complete EMS|MC's online training course within 90 days of the contract start date and all new hires will complete EMS|MC's online documentation training within 90 days of hire date. Newly developed training materials by EMS|MC should be mutually agreed upon by the parties to be required training.

k. Client shall comply with all applicable federal, state, and local laws, rules, regulations, and other legal requirements that in any way affect this Agreement or the duties and responsibilities of the parties hereunder.

4. EMS|MC WEB PORTALS.

a. EMS|MC shall provide Client and those individuals appointed by Client ("Users") with access to EMS|MC Web Portals (the "Portals"), which shall be subject to the applicable Terms of Use found on the Portals. To be appointed as a User, the individual must be an employee of Client or otherwise approved by Client and EMS|MC. Client is responsible for all activity of Users and others accessing or using the Portals through or on behalf of Client including, but not limited to, ensuring that Users do not share credentials for accessing the Portals. Client is also responsible for (i) identifying individuals who Client determines should be Users; (ii) determining and notifying EMS|MC of each User's rights; (iii) monitoring Users' access to and use of the Portals; (iv) acting upon any suspected or unauthorized access of information through the Portals; (v) ensuring each User's compliance with this Agreement and the Terms of Use governing the use of the Portals; and (vi) notifying EMS|MC to deactivate a User account whenever a User's employment, contract or affiliation with Client is terminated or Client otherwise desires to suspend or curtail a User's access to and use of the Portals. Client agrees to follow best practices to ensure compliance with this provision.

b. Client acknowledges that EMS|MC may suspend or terminate any User's access to the Portals (i) for noncompliance with this Agreement or the applicable Terms of Use; (ii) if such User poses a threat to the security or integrity of the Portals or information available therein; (iii) upon termination of Client; or (iv) upon notice of

suspension or termination of such User by Client. Client may suspend or terminate a User's access to the Portals at any time.

5. COMPENSATION OF EMS|MC.

a. Client shall pay a fee for the Services of EMS|MC hereunder, on a monthly basis, in an amount equal to 5.0% percent of "Net Collections" as defined below (the "RCM Fee"). Net Collections shall mean all cash and check amounts including electronic fund transfers (EFTs) received by EMS|MC from payers, patients, attorney's offices, court settlements, collection agencies, government institutions, debt set-off programs, group health insurance plans, private payments, credit cards, healthcare facilities or any person or entity submitting funds on a patient's account, or any amounts paid directly to Client with or without the knowledge of EMS|MC that are paid, tendered, received or collected each month for Client's transports, less refunds processed or any other necessary adjustments to those amounts. Price adjustments for such services shall be allowed at the completion of each contract year. Price adjustments shall not exceed the change in the average of the Consumer Price Index (CPI) for all Urban Consumers, Not Seasonally Adjusted, Area: U.S. city average, Item: All item, Base Period: 1982-84=100 over the twelve months prior.

b. The RCM Fee is referred to as the "Compensation".

c. EMS|MC shall submit an invoice to Client by the tenth (10th) day of each month for the Compensation due to EMS|MC for the previous calendar month. The Compensation amount reflected on the invoice shall be paid pursuant to the terms of the Illinois Local Government Prompt Payment Act, 50 ILCS 505/ *et seq.* Such amount shall be paid without offset unless the calculation of the amount is disputed in good faith, in which case Client shall pay the undisputed amount and shall provide EMS|MC with detailed written notice of the basis for the disputed portion within ten (10) days of said dispute. Any invoices not disputed in writing within ten (10) days shall be deemed "undisputed" for all purposes of the Agreement. All invoices are to be paid directly from Client's banking institution to EMS|MC via paper check, direct deposit or ACH draft initiated by EMS|MC into EMS|MC's bank account.

d. In the event of a material change to applicable law, the billing process and/or scope of Services provided in this Agreement or a material difference in any of the patient demographics provided by the Client and set forth in Exhibit A, EMS|MC reserves the right to negotiate a fee change with Client and amend this Agreement accordingly or terminate this Agreement.

e. EMS|MC may, in its sole discretion, immediately cease to provide Services for Client should the outstanding balance owed to EMS|MC become in arrears (except in cases of a documented dispute regarding outstanding sums owed). Claims processing will not resume until all outstanding balances are paid in full or arrangements approved by EMS|MC have been made to wholly resolve any outstanding balances.

6. TERM OF AGREEMENT.

a. This Agreement shall be effective commencing on January 1, 2025, and shall thereafter continue through December 31, 2025, (“Initial Term”). This Agreement shall be binding upon the parties hereto and their respective successors, assigns, and transferees. The Agreement shall automatically renew on the same terms and conditions as stated herein, for successive one (1) year terms (each a “Renewal Term”), unless either party gives written notice of intent not to renew at least 60 days before expiration of any term. Notwithstanding anything herein to the contrary, this Agreement may be terminated under the provisions provided below. (The Initial Term and any Renewal Terms are referred to as the “Term”.)

b. **Termination for Cause.** Notwithstanding Section 6(a), either party may terminate this Agreement if the other party materially breaches this Agreement or its Addendum, unless (i) the breaching party cures the breach within 10 days following receipt of notice describing the breach in reasonable detail, or (ii) with respect to a breach which may not reasonably be cured within a 10-day period, the breaching party commences, is diligently pursuing cure of, and cures the breach as soon as practical following receipt of notice describing the breach in reasonable detail.

c. **Immediate Termination.** Either party may terminate this Agreement immediately as a result of the following:

- i. Failure of Client to make timely payments due under this Agreement;
- ii. Injury to any customer, independent contractor, employee or agent of the other party hereto arising from the gross negligence or willful misconduct of a party;
- iii. Harassment of any employee or contractor of a party or commitment of any act by a party which creates an offensive work environment; or
- iv. Commitment of any unethical or immoral act which harms the other party or could have the effect of harming the other party.

7. RESPONSIBILITIES UPON TERMINATION.

a. Subject to Client's payment of all amounts due hereunder, upon any termination of this Agreement, and during the period of any notice of termination, EMS|MC will make available to Client or its authorized representatives data from the billing system regarding open accounts in an electronic format, and will otherwise reasonably cooperate and assist in any transition of the Services to Client, or its successor billing agent. Upon request, EMS|MC will provide to Client trip data associated with the claims submitted by EMS|MC on behalf of Client pursuant to this Agreement. EMS|MC shall retain financial and billing records not tendered or returned to Client on termination hereof for at least ten (10) years following the date of service.

b. Following termination of this Agreement, for a period of ninety (90) days (the "Wind Down"), EMS|MC will continue its billing and collection efforts as to those accounts with dates of services prior to termination, subject to the terms and conditions of this Agreement including, but not limited to, Section 5. Client will continue to provide EMS|MC with copies of checks and payments on those accounts which were filed by EMS|MC under this Agreement. EMS|MC shall have no further responsibilities as to such accounts after the Wind Down; however, EMS|MC shall be entitled to compensation as provided in Section 5(a) for such amounts filed by EMS|MC, regardless of whether such amounts are collected by Client during or after the Wind Down period. During the Wind Down and for up to twelve months following termination of this Agreement, EMS|MC shall continue to make the Portals available to Client, subject the applicable Terms of Use. Notwithstanding the foregoing, in the event EMS|MC terminated this Agreement pursuant to Sections 6(b) or 6(c), EMS|MC shall have no obligation to provide any Services after the date of termination.

8. EXCLUSIVITY AND MISCELLANEOUS BILLING POLICIES.

a. During the term of this Agreement, EMS|MC shall be Client's exclusive provider of the RCM Services. Client may not directly file, submit or invoice for any medical or medical transportation services rendered while this Agreement is in effect.

b. In addition, Client agrees not to collect or accept payment for services from any patient unless the service requested does not meet coverage requirements under any insurance program in which the patient is enrolled or the patient is uninsured. Payments received directly by Client for these services must be reported to EMS|MC as provided in Section 3(f) hereof and shall be treated as Net Collections for purposes of Section 5(a) hereof.

c. In compliance with CMS regulations, Medicare patients will not be charged by Client a higher rate or amount for identical covered services charged to other insurers

or patients. Accordingly, only one fee schedule shall exist and be used in determining charges for all patients regardless of insurance coverage.

d. EMS|MC reserves the right not to submit a claim for reimbursement on any patient in which the PCR and/or associated medical records are incomplete or appear to be inaccurate or do not contain enough information to substantiate or justify reimbursement. This includes missing patient demographic information, insurance information, Physician Certification Statements (PCS) or any required crew and/or patient signatures, or otherwise contradictory medical information.

e. Client shall implement and maintain a working compliance plan (“Compliance Plan”) in accordance with the most current guidelines of the U.S. Department of Health and Human Services (“HHS”). The Compliance Plan must include, but not be limited to, formal written policies and procedures and standards of conduct, designation of a compliance officer, quality assurance policy and effective training and education programs.

f. In accordance with the HHS Office of Inspector General (“OIG”) Compliance Program Guidance for Third-Party Medical Billing Companies, EMS|MC is obligated to report misconduct to the government, if EMS|MC discovers credible evidence of Client’s continued misconduct or flagrant, fraudulent or abusive conduct. In the event of such evidence, EMS|MC has the right to (a) refrain from submitting any false or inappropriate claims, (b) terminate this Agreement and/or (c) report the misconduct to the appropriate authorities.

9. NON-INTERFERENCE/NON-SOLICITATION OF EMS|MC EMPLOYEES.

Client understands and agrees that the relationship between EMS|MC and each of its employees constitutes a valuable asset of EMS|MC. Accordingly, Client agrees that both during the term of this Agreement and for a period beginning on the date of termination of this Agreement, whatever the reason, and ending one (1) year after the date of termination of this Agreement (the “Restricted Period”), Client shall not, without EMS|MC’s prior written consent, directly or indirectly, solicit or recruit for employment; attempt to solicit or recruit for employment; or attempt to hire or accept as an employee, consultant, contractor, or otherwise, or accept any work from EMS|MC’s employees with whom Client had material contact during the term of this Agreement, in any position where Client would receive from such employees the same or similar services that EMS|MC performed for Client during the term of this Agreement. Client also agrees during the Restricted Period not to unlawfully urge, encourage, induce, or attempt to urge, encourage, or induce any employee of EMS|MC to terminate his or her employment with

EMS|MC. Client has carefully read and considered the provisions of Section 9 hereof, and having done so, agrees that the restrictions set forth in such section (including, but not limited to, the time period) are fair and reasonable and are reasonably required for the protection of the legitimate interests of EMS|MC, its officers, directors, shareholders, and employees.

10. PRIVACY.

a. *Confidentiality.* The Parties acknowledge that they will each provide to the other Confidential Information as part of carrying out the terms of this Agreement. EMS|MC and Client will be both a Receiving Party and a Disclosing Party at different times. The Receiving Party agrees that it will not (i) use any such Confidential Information in any way, except for the exercise of its rights and performance of its obligations under this Agreement, or (ii) disclose any such Confidential Information to any third party, other than furnishing such Confidential Information to its employees, consultants, and subcontractors, who are subject to the safeguards and confidentiality obligations contained in this Agreement and who require access to the Confidential Information in the performance of the obligations under this Agreement. In the event that the Receiving Party is required by applicable law to make any disclosure of any of the Disclosing Party's Confidential Information, by subpoena, judicial or administrative order or otherwise, the Receiving Party will first give written notice of such requirement to the Disclosing Party, and will permit the Disclosing Party to intervene in any relevant proceedings to protect its interests in the Confidential Information, and provide full cooperation and assistance to the Disclosing Party in seeking to obtain such protection, at the Disclosing Party's sole expense. "Confidential Information" means any information designated as confidential before its disclosure by either Party (the "Disclosing Party") to the other Party (the "Receiving Party"), or information that is considered confidential by operation of law or regulation. Information will not be deemed Confidential Information hereunder if the Receiving Party can prove by documentary evidence that such information: (a) was known to the Receiving Party prior to receipt from the Disclosing Party directly or indirectly from a source other than one having an obligation of confidentiality to the Disclosing Party; (b) becomes known (independently of disclosure by the Disclosing Party) to the Receiving Party directly or indirectly from a source other than one having an obligation of confidentiality to the Disclosing Party; (c) becomes publicly known or otherwise ceases to be secret or confidential, except through a breach of this Agreement by the Receiving Party; or (d) is independently developed by the Receiving Party without the use of any Confidential Information of the Disclosing Party.

b. *HIPAA Compliance.* The parties agree to comply with the Business Associate Addendum, attached hereto and incorporated by reference herein as Attachment 1, documenting the assurances and other requirements respecting the use and disclosure of Protected Health Information. It is Client's responsibility to ensure that it obtains all appropriate and necessary authorizations and consents to use or disclose any individually identifiable health information in compliance with all federal and state privacy laws, rules and regulations, including but not limited to the Health Insurance Portability and Accountability Act. In the event that this Agreement is, or activities permitted or required by this Agreement are, inconsistent with or do not satisfy the requirements of any applicable privacy or security law, rule or regulation, the parties shall take any reasonably necessary action to remedy such inconsistency.

11. DISCLAIMERS, LIMITATIONS OF LIABILITY AND DISPUTE RESOLUTION

a. Each Party acknowledges that the liability limitations and warranty disclaimers in the Agreement are independent of any remedies hereunder and shall apply regardless of whether any remedy fails of its essential purpose. Client acknowledges that the limitations of liability set forth in this Agreement are integral to the amount of consideration offered and charged in connection with the Services and that, were EMS|MC to assume any further liability other than as provided in the Agreement, such consideration would of necessity be set substantially higher.

b. EMS|MC and Client acknowledge and agree that despite their best efforts, billing errors may occur from time to time. Each party will promptly notify the other party of the discovery of a billing error. EMS|MC's sole obligation in the event of a billing error will be to correct the error by making appropriate changes to the information in its system, posting a refund if appropriate, and re-billing the underlying claim if permissible.

c. Except for any express warranty provided herein or in the applicable exhibit, the services are provided on an "as is," "as available" basis. Client agrees that use of the services is at client's sole risk; and, to the maximum extent permitted by law, EMS|MC expressly disclaims any and all other express or implied warranties with respect to the services including, but not limited to, warranties of merchantability, fitness for a particular purpose, title, non-infringement or warranties alleged to arise as a result of custom and usage.

d. A "Claim" is defined as any claim or other matter in dispute between EMS|MC and Client that arises from or relates in any way to this Agreement or to the Services, or data provided by EMS|MC hereunder, regardless of whether such claim or

matter is denominated as a contract claim, tort claim, warranty claim, indemnity claim, statutory claim, arbitration demand, or otherwise.

e. Reserved.

f. To the fullest extent allowed by law, EMS|MC and Client waive claims against each other for consequential, indirect, incidental, special, punitive, exemplary, and treble damages, and for any other damages in excess of direct, compensatory damages including, but not limited to, loss of profits, loss of data, or loss of business, regardless of whether such claim or matter is denominated as a contract claim, tort claim, warranty claim, indemnity claim, statutory claim, arbitration demand, or otherwise, even if a party has been apprised of the possibility or likelihood of such damages occurring (the “Non-Direct Damages Waiver”).

g. All Claims between EMS|MC and Client shall be resolved by a Court of competent jurisdiction. For the purposes of this Agreement, venue shall be proper in Cook County, Illinois or the Northern District of Illinois.

h. In any proceeding regarding any Claim, the prevailing party shall be entitled to recover from the non-prevailing party the reasonable costs and expenses incurred by the prevailing party in connection with such proceeding, including, without limitation, the reasonable attorneys’ fees, court filing fees, arbitrator compensation, expert witness charges, court reporter charges, and document reproduction charges incurred by the prevailing party. Which party is the prevailing party shall be determined in light of the surrounding circumstances, such as comparing the relief requested with that awarded, and shall not be determined simply by whether one party or the other receives a net monetary recovery in its favor.

12. GENERAL.

a. Status of Parties. Nothing contained in this Agreement shall be construed as establishing a partnership or joint venture relationship between EMS|MC and Client, or as establishing an agency relationship beyond EMS|MC’s service as a billing and collection agent of Client under the express terms of this Agreement. EMS|MC and its employees and representatives shall have no legal authority to bind Client.

b. Assignment. Neither this Agreement nor any rights or obligations hereunder shall be assigned by either party without prior written consent of the other party, except that this Agreement may be assigned without consent to the survivor in any merger or other business combination including either party, or to the purchaser of all or substantially all of the assets of either party.

c. Binding Effect. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors, assigns (where permitted), and transferees.

d. Notices. All notices required or permitted by this Agreement shall be in writing and shall be deemed to have been given: (i) on the day received, if personally delivered; (ii) on the day received if sent by a recognized overnight delivery service, according to the courier's record of delivery; and (iii) on the 5th (fifth) calendar day after the date mailed by certified or registered mail. Such notices shall be addressed as follows:

Client:

Village of Western Springs
d/b/a: Western Springs Fire Department
740 Hillgrove Avenue
Western Springs, IL 60558

EMS|MC:

EMS Management & Consultants, Inc.
Chief Executive Officer
2540 Empire Drive
Suite 100
Winston-Salem, NC 27103

Either party may change its address for notices under this Agreement by giving written notice of such change to the other party in accordance with the terms of this section.

e. Governing Law. This Agreement and the rights and obligations of the parties hereunder shall be construed in accordance with and governed by the laws of the State of Illinois, notwithstanding any conflicts of law rules to the contrary.

f. Integration of Terms. This instrument together with all attachments, exhibits and schedules constitutes the entire agreement between the parties, and supersedes all prior negotiations, commitments, representations and undertakings of the parties with respect to its subject matter. Without limiting the foregoing, this Agreement supersedes and takes precedence over any inconsistent terms contained in any Request for Proposal ("RFP") from Client and any response to that RFP from EMS|MC.

g. Amendment and Waiver. This Agreement may be amended or modified only by an instrument signed by all of the parties. A waiver of any provision of this Agreement must be in writing, designated as such, and signed by the party against whom enforcement of the waiver is sought. The waiver of a breach of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent or other breach thereof.

h. Severability. If any provision of this Agreement shall not be valid for any reason, such provision shall be entirely severable from, and shall have no effect upon, the remainder of this Agreement. Any such invalid provision shall be subject to partial enforcement to the extent necessary to protect the interest of the parties hereto.

i. Force Majeure. With the exception of Client's payment obligation, a Party will not be in breach or liable for any delay of its performance of this Agreement caused by natural disasters or other unexpected or unusual circumstances reasonably beyond its control.

j. Third Party Beneficiaries. There are no third-party beneficiaries to this Agreement.

k. Counterparts. This Agreement may be executed in multiple counterparts by a duly authorized representative of each party.

l. Survival. All terms which by their nature survive termination shall survive termination or expiration of the Agreement including, but not limited to, Sections 3(c), 3(f) – (h), 5(a), 5(c), 7, 9 – 12.

IN WITNESS WHEREOF, the undersigned have caused this Agreement to be duly executed on the later of the dates set forth below.

Each person whose signature appears hereon represents, warrants and guarantees that he/she has been duly authorized and has full authority to execute this Agreement on behalf of the party on whose behalf this Agreement is executed.

EMS|MC:

CLIENT:

EMS Management & Consultants, Inc.

Village of Western Springs

By: _____

By: _____

Print Name: _____

Print Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Attachment 1 Business Associate Addendum

This Business Associate Addendum (the “Addendum”) is made effective the ____ day of _____ 20__, by and between the Village of Western Springs, hereinafter referred to as “Covered Entity,” and EMS Management & Consultants, Inc., hereinafter referred to as “Business Associate” (individually, a “Party” and collectively, the “Parties”).

WITNESSETH:

WHEREAS, the Parties wish to enter into a Business Associate Addendum to ensure compliance with the Privacy and Security Rules of the Health Insurance Portability and Accountability Act of 1996 (“HIPAA Privacy and Security Rules”) (45 C.F.R. Parts 160 and 164); and

WHEREAS, the Health Information Technology for Economic and Clinical Health (“HITECH”) Act of the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, modified the HIPAA Privacy and Security Rules (hereinafter, all references to the “HIPAA Privacy and Security Rules” include all amendments thereto set forth in the HITECH Act and any accompanying regulations); and

WHEREAS, the Parties have entered into a Billing Services Agreement (the “Agreement”) whereby Business Associate will provide certain services to Covered Entity and, pursuant to such Agreement, Business Associate may be considered a “business associate” of Covered Entity as defined in the HIPAA Privacy and Security Rules; and

WHEREAS, Business Associate may have access to Protected Health Information or Electronic Protected Health Information (as defined below) in fulfilling its responsibilities under the Agreement; and

WHEREAS, Covered Entity wishes to comply with the HIPAA Privacy and Security Rules, and Business Associate wishes to honor its obligations as a Business Associate to Covered Entity.

THEREFORE, in consideration of the Parties’ continuing obligations under the Agreement, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree to the provisions of this Addendum.

I. DEFINITIONS

Except as otherwise defined herein, any and all capitalized terms in this Addendum shall have the definitions set forth in the HIPAA Privacy and Security Rules. In the event of an inconsistency between the provisions of this Addendum and mandatory provisions of the HIPAA Privacy and Security Rules, as amended, the HIPAA Privacy and Security Rules in effect at the time shall control. Where provisions of this Addendum are different than those mandated by the HIPAA Privacy and Security Rules, but are nonetheless permitted by the HIPAA Privacy and Security Rules, the provisions of this Addendum shall control.

The term “Breach” means the unauthorized acquisition, access, use, or disclosure of protected health information which compromises the security or privacy of such information, except where an unauthorized person to whom such information is disclosed would not reasonably have been able to retain such information. The term “Breach” does **not** include: (1) any unintentional acquisition, access, or use of

protected health information by any employee or individual acting under the authority of a covered entity or business associate if (a) such acquisition, access, or use was made in good faith and within the course and scope of the employment or other professional relationship of such employee or individual, respectively, with the covered entity or business associate, and (b) such information is not further acquired, accessed, used, or disclosed by any person; or (2) any inadvertent disclosure from an individual who is otherwise authorized to access protected health information at a facility operated by a covered entity or business associate to another similarly situated individual at same facility; and (3) any such information received as a result of such disclosure is not further acquired, accessed, used, or disclosed without authorization by any person.

The term “Electronic Health Record” means an electronic record of health-related information on an individual that is created, gathered, managed, and consulted by authorized health care clinicians and staff.

The term “HIPAA Privacy and Security Rules” refers to 45 C.F.R. Parts 160 and 164 as currently in effect or hereafter amended.

The term “Protected Health Information” means individually identifiable health information as defined in 45 C.F.R. § 160.103, limited to the information Business Associate receives from, or creates, maintains, transmits, or receives on behalf of, Covered Entity.

The term “Electronic Protected Health Information” means Protected Health Information which is transmitted by or maintained in Electronic Media (as now or hereafter defined in the HIPAA Privacy and Security Rules).

The term “Secretary” means the Secretary of the Department of Health and Human Services.

The term “Unsecured Protected Health Information” means Protected Health Information that is not rendered unusable, unreadable, or indecipherable to unauthorized individuals through the use of a technology or methodology specified by the Secretary in guidance published in the Federal Register at 74 Fed. Reg. 19006 on April 27, 2009 and in annual guidance published thereafter.

II. PERMITTED USES AND DISCLOSURES BY BUSINESS ASSOCIATE

a. Business Associate may use or disclose Protected Health Information to perform functions, activities, or services for, or on behalf of, Covered Entity as specified in the Agreement or this Addendum, provided that such use or disclosure would not violate the HIPAA Privacy and Security Rules if done by Covered Entity. Until such time as the Secretary issues regulations pursuant to the HITECH Act specifying what constitutes “minimum necessary” for purposes of the HIPAA Privacy and Security Rules, Business Associate shall, to the extent practicable, disclose only Protected Health Information that is contained in a limited data set (as defined in Section 164.514(e)(2) of the HIPAA Privacy and Security Rules), unless the person or entity to whom Business Associate is making the disclosure requires certain direct identifiers in order to accomplish the intended purpose of the disclosure, in which event Business Associate may disclose only the minimum necessary amount of Protected Health Information to accomplish the intended purpose of the disclosure.

b. Business Associate may use Protected Health Information in its possession for its proper management and administration and to fulfill any present or future legal responsibilities of Business Associate, provided that such uses are permitted under state and federal confidentiality laws.

c. Business Associate may disclose Protected Health Information in its possession to third parties for the purposes of its proper management and administration or to fulfill any present or future legal responsibilities of Business Associate, provided that:

1. the disclosures are required by law; or

2. Business Associate obtains reasonable assurances from the third parties to whom the Protected Health Information is disclosed that the information will remain confidential and be used or further disclosed only as required by law or for the purpose for which it was disclosed to the third party, and that such third parties will notify Business Associate of any instances of which they are aware in which the confidentiality of the information has been breached.

d. Until such time as the Secretary issues regulations pursuant to the HITECH Act specifying what constitutes “minimum necessary” for purposes of the HIPAA Privacy and Security Rules, Business Associate shall, to the extent practicable, access, use, and request only Protected Health Information that is contained in a limited data set (as defined in Section 164.514(e)(2) of the HIPAA Privacy and Security Rules), unless Business Associate requires certain direct identifiers in order to accomplish the intended purpose of the access, use, or request, in which event Business Associate may access, use, or request only the minimum necessary amount of Protected Health Information to accomplish the intended purpose of the access, use, or request. Covered Entity shall determine what quantum of information constitutes the “minimum necessary” amount for Business Associate to accomplish its intended purposes.

e. Business Associate may use Protected Health Information to de-identify such information in accordance with 45 C.F.R. § 164.514(b) for Business Associate’s own business purposes or in connection with the services provided pursuant to the Agreement or to provide Data Aggregation services to Customer as permitted by 45 C.F.R. 164.504(e)(2)(i)(b). Once the Protected Health Information has been de-identified or aggregated, it is no longer considered Protected Health Information governed by this Addendum.

III. OBLIGATIONS AND ACTIVITIES OF BUSINESS ASSOCIATE

a. Business Associate acknowledges and agrees that all Protected Health Information that is created or received by Covered Entity and disclosed or made available in any form, including paper record, oral communication, audio recording, and electronic display by Covered Entity or its operating units to Business Associate or is created or received by Business Associate on Covered Entity’s behalf shall be subject to this Addendum.

b. Business Associate agrees to not use or further disclose Protected Health Information other than as permitted or required by the Agreement, this Addendum or as required by law.

c. Business Associate agrees to use appropriate safeguards to prevent use or disclosure of Protected Health Information other than as provided for by this Addendum. Specifically, Business Associate will:

1. implement the administrative, physical, and technical safeguards set forth in Sections 164.308, 164.310, and 164.312 of the HIPAA Privacy and Security Rules that reasonably and appropriately protect the confidentiality, integrity, and availability of any Protected Health Information that it creates, receives, maintains, or transmits on behalf of Covered Entity, and, in accordance with Section 164.316 of the HIPAA Privacy and Security Rules, implement and maintain reasonable and appropriate policies and procedures to enable it to comply with the requirements outlined in Sections 164.308, 164.310, and 164.312; and

2. report to Covered Entity any use or disclosure of Protected Health Information not provided for by this Addendum of which Business Associate becomes aware. Business Associate shall report to Covered Entity any Security Incident of which it becomes aware. Notice is deemed to have been given for unsuccessful Security Incidents, such as (i) “pings” on an information system firewall; (ii) port scans; (iii) attempts to log on to an information system or enter a database with an invalid password or user name; (iv) denial-of-service attacks that do not result in a server being taken offline; or (v) malware (*e.g.*, a worms or a virus) that does not result in unauthorized access, use, disclosure, modification or destruction of Protected Health Information.

d. Business Associate agrees to ensure that any agent, including a subcontractor, to whom it provides Protected Health Information received from, or created or received by Business Associate on behalf of Covered Entity, agrees to the same restrictions and conditions that apply through this Addendum to Business Associate with respect to such information.

e. Business Associate agrees to comply with any requests for restrictions on certain disclosures of Protected Health Information to which Covered Entity has agreed in accordance with Section 164.522 of the HIPAA Privacy and Security Rules and of which Business Associate has been notified by Covered Entity. In addition, and notwithstanding the provisions of Section 164.522 (a)(1)(ii), Business Associate agrees to comply with an individual’s request to restrict disclosure of Protected Health Information to a health plan for purposes of carrying out payment or health care operations if the Protected Health Information pertains solely to a health care item or service for which Covered Entity has been paid by in full by the individual or the individual’s representative.

f. At the request of the Covered Entity and in a reasonable time and manner, not to extend ten (10) business days, Business Associate agrees to make available Protected Health Information required for Covered Entity to respond to an individual’s request for access to his or her Protected Health Information in accordance with Section 164.524 of the HIPAA Privacy and Security Rules. If Business Associate maintains Protected Health Information electronically, it agrees to make such Protected Health Information available electronically to the applicable individual or to a person or entity specifically designated by such individual, upon such individual’s request.

g. At the request of Covered Entity and in a reasonable time and manner, Business Associate agrees to make available Protected Health Information required for amendment by Covered Entity in accordance with the requirements of Section 164.526 of the HIPAA Privacy and Security Rules.

h. Business Associate agrees to document any disclosures of and make Protected Health Information available for purposes of accounting of disclosures, as required by Section 164.528 of the HIPAA Privacy and Security Rules.

i. Business Associate agrees that it will make its internal practices, books, and records relating to the use and disclosure of Protected Health Information received from, or created or received by Business Associate on behalf of, Covered Entity, available to the Secretary for the purpose of determining Covered Entity’s compliance with the HIPAA Privacy and Security Rules, in a time and manner designated by the Secretary, subject to attorney-client and other applicable privileges.

j. Business Associate agrees that, while present at any Covered Entity facility and/or when accessing Covered Entity’s computer network(s), it and all of its employees, agents, representatives and subcontractors will at all times comply with any network access and other security practices, procedures

and/or policies established by Covered Entity including, without limitation, those established pursuant to the HIPAA Privacy and Security Rules.

k. Business Associate agrees that it will not directly or indirectly receive remuneration in exchange for any Protected Health Information of an individual without the written authorization of the individual or the individual's representative, except where the purpose of the exchange is:

1. for public health activities as described in Section 164.512(b) of the Privacy and Security Rules;
2. for research as described in Sections 164.501 and 164.512(i) of the Privacy and Security Rules, and the price charged reflects the costs of preparation and transmittal of the data for such purpose;
3. for treatment of the individual, subject to any further regulation promulgated by the Secretary to prevent inappropriate access, use, or disclosure of Protected Health Information;
4. for the sale, transfer, merger, or consolidation of all or part of Business Associate and due diligence related to that activity;
5. for an activity that Business Associate undertakes on behalf of and at the specific request of Covered Entity;
6. to provide an individual with a copy of the individual's Protected Health Information pursuant to Section 164.524 of the Privacy and Security Rules; or
7. other exchanges that the Secretary determines in regulations to be similarly necessary and appropriate as those described in this Section III.k.

l. Business Associate agrees that it will not directly or indirectly receive remuneration for any written communication that encourages an individual to purchase or use a product or service without first obtaining the written authorization of the individual or the individual's representative, unless:

1. such payment is for a communication regarding a drug or biologic currently prescribed for the individual and is reasonable in amount (as defined by the Secretary); or
2. the communication is made on behalf of Covered Entity and is consistent with the terms of this Addendum.

m. Business Associate agrees that if it uses or discloses patients' Protected Health Information for marketing purposes, it will obtain such patients' authorization before making any such use or disclosure.

n. Business Associate agrees to implement a reasonable system for discovery of breaches and method of risk analysis of breaches to meet the requirements of HIPAA, The HITECH Act, and the HIPAA Regulations, and shall be solely responsible for the methodology, policies, and procedures implemented by Business Associate.

o. State Privacy Laws. Business Associate shall understand and comply with state privacy laws to the extent that state privacy laws are not preempted by HIPAA or The HITECH Act.

IV. BUSINESS ASSOCIATE'S MITIGATION AND BREACH NOTIFICATION OBLIGATIONS

a. Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of Protected Health Information by Business Associate in violation of the requirements of this Addendum.

b. Following the discovery of a Breach of Unsecured Protected Health Information, Business Associate shall notify Covered Entity of such Breach without unreasonable delay and in no case later than forty-five (45) calendar days after discovery of the Breach. A Breach shall be treated as discovered by Business Associate as of the first day on which such Breach is known to Business Associate or, through the exercise of reasonable diligence, would have been known to Business Associate.

c. Notwithstanding the provisions of Section IV.b., above, if a law enforcement official states to Business Associate that notification of a Breach would impede a criminal investigation or cause damage to national security, then:

1. if the statement is in writing and specifies the time for which a delay is required, Business Associate shall delay such notification for the time period specified by the official; or

2. if the statement is made orally, Business Associate shall document the statement, including the identity of the official making it, and delay such notification for no longer than thirty (30) days from the date of the oral statement unless the official submits a written statement during that time.

Following the period of time specified by the official, Business Associate shall promptly deliver a copy of the official's statement to Covered Entity.

d. The Breach notification provided shall include, to the extent possible:

1. the identification of each individual whose Unsecured Protected Health Information has been, or is reasonably believed by Business Associate to have been, accessed, acquired, used, or disclosed during the Breach;

2. a brief description of what happened, including the date of the Breach and the date of discovery of the Breach, if known;

3. a description of the types of Unsecured Protected Health Information that were involved in the Breach, if known (such as whether full name, social security number, date of birth, home address, account number, diagnosis, disability code, or other types of information were involved);

4. any steps individuals should take to protect themselves from potential harm resulting from the Breach; and

5. a brief description of what Business Associate is doing to investigate the Breach, to mitigate harm to individuals, and to protect against any further Breaches.

e. Business Associate shall provide the information specified in Section IV.d., above, to Covered Entity at the time of the Breach notification if possible or promptly thereafter as information becomes available. Business Associate shall not delay notification to Covered Entity that a Breach has occurred in order to collect the information described in Section IV.d. and shall provide such information to Covered

Entity even if the information becomes available after the forty-five (45)-day period provided for initial Breach notification.

V. OBLIGATIONS OF COVERED ENTITY

a. Upon request of Business Associate, Covered Entity shall provide Business Associate with the notice of privacy practices that Covered Entity produces in accordance with Section 164.520 of the HIPAA Privacy and Security Rules.

b. Covered Entity shall provide Business Associate with any changes in, or revocation of, permission by an individual to use or disclose Protected Health Information, if such changes affect Business Associate's permitted or required uses and disclosures.

c. Covered Entity shall notify Business Associate of any restriction to the use or disclosure of Protected Health Information to which Covered Entity has agreed in accordance with Section 164.522 of the HIPAA Privacy and Security Rules, and Covered Entity shall inform Business Associate of the termination of any such restriction, and the effect that such termination shall have, if any, upon Business Associate's use and disclosure of such Protected Health Information.

VI. TERM AND TERMINATION

a. Term. The Term of this Addendum shall be effective as of the date first written above, and shall terminate upon the later of the following events: (i) in accordance with Section VII.c., when all of the Protected Health Information provided by Covered Entity to Business Associate or created or received by Business Associate on behalf of Covered Entity is destroyed or returned to Covered Entity or, if such return or destruction is infeasible, when protections are extended to such information; or (ii) upon the expiration or termination of the Agreement.

b. Termination for Cause. Upon Covered Entity's knowledge of a material breach of this Addendum by Business Associate and Business Associate's failure to cure such breach within 10 days following receipt of notice describing the breach in reasonable detail, or (ii) with respect to a breach which may not reasonably be cured within a 10-day period, the breaching party commences, is diligently pursuing cure of, and cures the breach as soon as practical following receipt of notice describing the breach in reasonable detail, Covered Entity shall have the right to terminate this Addendum.

c. Effect of Termination.

1. Except as provided in paragraph 2. of this subsection, upon termination of this Addendum, the Agreement or upon request of Covered Entity, whichever occurs first, Business Associate shall return or destroy all Protected Health Information received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. This provision shall apply to Protected Health Information that is in the possession of subcontractors or agents of Business Associate. Neither Business Associate nor its subcontractors or agents shall retain copies of the Protected Health Information.

2. In the event that Business Associate determines that returning or destroying the Protected Health Information is infeasible, Business Associate shall provide to Covered Entity notification of the conditions that make return or destruction infeasible and shall extend the protections of this Addendum to such Protected Health Information and limit further uses and disclosures of such Protected Health Information to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such Protected Health Information.

VII. MISCELLANEOUS

a. **No Rights in Third Parties.** Except as expressly stated herein, the Parties to this Addendum do not intend to create any rights in any third parties.

b. **Survival.** The obligations of Business Associate under Section VII(c) of this Addendum shall survive the expiration, termination, or cancellation of this Addendum, the Agreement, and/or the business relationship of the parties, and shall continue to bind Business Associate, its agents, employees, contractors, successors, and assigns as set forth herein.

c. **Amendment.** This Addendum may be amended or modified only in a writing signed by the Parties. The Parties agree that they will negotiate amendments to this Addendum to conform to any changes in the HIPAA Privacy and Security Rules as are necessary for Covered Entity to comply with the current requirements of the HIPAA Privacy and Security Rules. In addition, in the event that either Party believes in good faith that any provision of this Addendum fails to comply with the then-current requirements of the HIPAA Privacy and Security Rules or any other applicable legislation, then such Party shall notify the other Party of its belief in writing. For a period of up to thirty (30) days, the Parties shall address in good faith such concern and amend the terms of this Addendum, if necessary to bring it into compliance. If, after such thirty (30)-day period, the Addendum fails to comply with the HIPAA Privacy and Security Rules or any other applicable legislation, then either Party has the right to terminate this Addendum and the Agreement upon written notice to the other party.

d. **Independent Contractor.** None of the provisions of this Addendum are intended to create, nor will they be deemed to create, any relationship between the Parties other than that of independent parties contracting with each other solely for the purposes of effecting the provisions of this Addendum and any other agreements between the Parties evidencing their business relationship.

e. **Interpretation.** Any ambiguity in this Addendum shall be resolved in favor of a meaning that permits Covered Entity to comply with the HIPAA Privacy and Security Rules.

f. **Certain Provisions Not Effective in Certain Circumstances.** The provisions of this Addendum relating to the HIPAA Security Rule shall not apply to Business Associate if Business Associate does not receive any Electronic Protected Health Information from or on behalf of Covered Entity.

g. **Ownership of Information.** Covered Entity holds all right, title, and interest in and to the PHI and Business Associate does not hold and will not acquire by virtue of this Addendum or by virtue of providing goods or services to Covered Entity, any right, title, or interest in or to the PHI or any portion thereof.

h. **Entire Agreement.** This Addendum is incorporated into, modifies and amends the Agreement, inclusive of all other prior amendments or modifications to such Agreement. The terms and provisions of this Addendum shall control to the extent they are contrary, contradictory or inconsistent with the terms of the Agreement. Otherwise, the terms and provisions of the Agreement shall remain in full force and effect and apply to this Addendum.

IN WITNESS WHEREOF, the Parties have executed this Addendum as of the day and year written above.

Each person whose signature appears hereon represents, warrants and guarantees that he/she has been duly authorized and has full authority to execute this Agreement on behalf of the party on whose behalf this Agreement is executed.

Business Associate:

Covered Entity:

EMS Management & Consultants, Inc.

Village of Western Springs

By: _____

By: _____

Print: _____

Print: _____

Title: _____

Title: _____

Date: _____

Date: _____