

**Administrative-Finance Committee**  
**April 3, 2023**  
**6:00 p.m. – City Hall Conference Room**

- 1. Call to Order**
- 2. Public Comment**
- 3. New Business**
  - a. A resolution accepting a proposal from AIS, Inc. for computer consulting services and back up services in the amount of \$96,024 annually.**
  - b. A motion to approve one electronics recycling event with the city's current refuse hauler, Lakeshore Recycling Systems, LLC (LRS) in an amount not to exceed \$9,800.**
  - c. A resolution approving an Employee Leasing Agreement with GovTempUSA, LLC to provide a Worksite Employee- assignment City Administrator.**
  - d. Approval of Minutes – February 6, 2023**
- 4. Other Business**
- 5. Next Meeting – May 1, 2023**
- 6. Adjournment**

**AGENDA MEMO**  
**Administrative/Finance Committee**  
**April 3, 2023**

**ISSUE STATEMENT**

A resolution accepting a proposal from AIS, Inc. for computer consulting services in the amount of \$96,024 annually.

**BACKGROUND/HISTORY**

The City of Darien utilizes an outside consultant to maintain its computer network and systems. Currently, the city has a limited block of hours each month (32 hours) which includes a technician onsite twice a month at an annual price of \$71,163. Trouble shooting with multiple software, hardware and service calls are nearly a daily occurrence. Cameras are now in the car and on the officers. Each interaction recorded, requires wireless and wired communications to label, save and view for documentation purposes, adding to an increase in assistance.

Moving to an unlimited block of hours and a technician onsite once a week will allow the Police Department, City Hall and Public Works the ability to address issues with connectivity and functionality as problems arise on various devices (tablets, desktops/laptops, mobile printers, etc) allowing for a more productive and efficient operation. The contract also includes replacement of up to three computers (desktops, laptops, or tablets) annually.

Attachment A highlights the services included in the proposal. The FYE24 proposed budget includes \$96,024 in Account 01-10-4325.

**STAFF/COMMITTEE RECOMMENDATION**

Staff recommends approval

**ALTERNATE CONSIDERATION**

As directed.

**DECISION MODE**

This item will be placed on the April 17, 2023, City Council Agenda for consideration.

## EXHIBIT A

**CONSULTANT Emergency Service Response  
Service Level Agreement**

**Managed IT Services SLAs**

Severity	Description	Initial Response Time
Emergency	Severe business impact; loss of network, server, or email	1 Hour
High	Moderate business impact or high personal impact	2 Hours
Medium	Lower business impact or moderate individual impact	8 Business Hours
Low	Low business or individual impact	16 Business Hours
Very Low	No productivity or service level impact	5 Business Days

**Managed Security Services SLAs**

Category	Outage Notification	Mean Time to Restore	Policy Change	Definition Updates
Antivirus	30 Minutes from Alarm	4 hours	24 hours	3 hours
Antispam	30 Minutes from Alarm	4 hours	24 hours	3 hours
Application Control	30 Minutes from Alarm	4 hours	24 hours	N/A
Firewall	30 Minutes from Alarm	4 hours	24 hours	N/A
Data Loss Prevention	30 Minutes from Alarm	4 hours	24 hours	N/A
Intrusion Prevention	30 Minutes from Alarm	4 hours	24 hours	3 hours
Remote Access VPN	30 Minutes from Alarm	4 hours	24 hours	N/A
SiteConnect VPN	30 Minutes from Alarm	4 hours	24 hours	N/A
Reporting	30 Minutes from Alarm	4 hours	24 hours	N/A
Vulnerability Scans	N/A	N/A	24 hours	When run
Web Content Filtering	30 Minutes from Alarm	4 hours	24 hours	24 hours

**Managed Cloud Services SLAs**

Category	Severity	Response Time	Resolution Time	Escalation Threshold
Emergency – Complete loss of Internet accessibility	Urgent	Within 4 hours	Best Effort	8 hours

**EXHIBIT B  
CONSULTANT Managed Services Included in Agreement**

<b>Defined Managed Services Checklist</b>		
<b>Tasks:</b>	<b>Frequency:</b>	<b>Included:</b>
<b>General</b>		
Remote 8x5 Support	As needed	YES
Remote 24x7 Support	As needed	YES
Onsite Support	1 day per week	YES
Document software and hardware changes	As performed	YES
Reports of work accomplished, work in progress, etc.	Monthly / As Needed	YES
<b>Workstations</b>		
Manage workstations	Ongoing	YES
Upgrades or rebuilds (up to 3 computers, laptops or tablets)	Per Year	YES
<b>Servers</b>		
Manage Servers covered under this Agreement	Ongoing	YES
Check print queues	As needed	YES
Monitor all Server services	Ongoing	YES
Keep Service Packs, Patches, and Hot Fixes current as per company policy	Ongoing	YES
Check event logs for potential issues	Ongoing	YES
Monitor hard drive free space	Ongoing	YES
Exchange Server user/mailbox management	Per Request	YES
Monitor Active Directory replication	Ongoing	YES
Monitor WINS replication	As needed	YES
SQL server management	As needed	YES
Servers reboot if needed	As needed	YES
Run defragmentation and check disk tool on all drives	As needed	YES
Schedule off time server maintenance	As needed	YES
Install supported software upgrades	As needed	YES
Setup and manage users and groups in the Active Directory	As needed	YES
Alert Darien to dangerous conditions: <ul style="list-style-type: none"> <li>• Memory running low</li> <li>• Hard drive showing signs of failure</li> <li>• Hard drive running out of disk space</li> <li>• Controllers losing interrupts</li> <li>• Network Cards report unusual collision activity</li> </ul>	As needed	YES
File restore from existing backup (deleted files and corrupted files)	As needed	YES
Clean and prune directory structure, keep efficient and active	As needed	YES
<b>Disaster Recovery</b>		
Alert Darien to dangerous conditions	As needed	YES
<b>Networks</b>		
Check router logs	As needed	YES
Performance Monitoring/Capacity Planning	Ongoing	YES
Monitor DSU/TSU, switches, hubs, and Internet connectivity, and make sure everything is operational (available for SNMP manageable devices only)	Ongoing	YES
<b>Security</b>		
Anti SPAM email filtering for all users	Ongoing	YES
Windows servers, workstations and 3 <sup>rd</sup> party security patches	Ongoing	YES
Check firewall logs	Daily or as needed	YES
Confirm that antivirus virus definition auto updates have occurred	Daily or as needed	YES
Confirm that antispyware updates have occurred	Daily or as needed	YES
Create new directories, shares and security groups, new accounts, disable/delete old accounts, manage account policies	As needed	YES
File system management and permissions	As needed	YES
Accounts set up including login restrictions, passwords, security, and applications	As needed	YES
Set up and change security for users and applications	As needed	YES
<b>Applications</b>		
Confirm that standard Microsoft Office Applications are functioning as designed	As needed	YES
Resolve problems with 3 <sup>rd</sup> party software with best effort	As needed	YES

## EXHIBIT C

### Projects and Hardware Replacements

#### **Project / Integration Work / Moves Adds and Changes**

Defined as any service designated to add or increase functionality or capacity and any work that is not designed to support existing systems or persons. Projects / Integration Work are outside the scope of this agreement and as such will be quoted and invoiced separately. Consultant will identify work considered as "Project / Integration Work" in advance. Client written authorization must be given before any work is completed. Project / Integration work will be discussed and provided by both parties as part of the monthly or quarterly strategic planning sessions for efficient and timely implementation.

Examples of Project / Integration Work:

- Installing new wireless access points in the environment
- Labor associated with migrating servers to the cloud
- Replacing existing firewalls with new firewalls
- New office buildouts
- Implementing/Integrating new City or Department wide software applications
- Upgrading servers or adding new computer hardware.

#### **Hardware Replacement Costs**

Hardware replacement costs and labor will be quoted and invoiced separately as a project. Consultant will identify work considered as project work in advance. Client written authorization must be given before any work is completed.

Hardware replacement does not take the form of warranties, extended warranties, manufacturer's support contracts, on-site spares, servers or network equipment. Hardware replacement options will be discussed and provided as part of the monthly or quarterly strategic planning sessions and/or Network Assessment to be sure an appropriate hardware strategy exists for all critical network equipment.

Examples of Hardware Replacement Costs

- User desktops or laptops owned by Client and on Client premises



## Quote

Quote Number: 29875

Internal PO: AIS-29875

Payment Terms:  
Expiration Date: 05/01/2023

### Quote Prepared For

**Lisa Klemm**  
**City of Darien**  
 1702 Plainfield Road  
 Darien, IL 60561  
 United States  
 Phone:630-852-5000  
 LKlemm@darienil.gov

### Quote Prepared By

**John Licar**  
**All Information Services, Inc**  
 1815 S Meyers Road, Suite 820  
 Oakbrook Terrace, IL 60181  
 United States  
 Phone:708-352-7050  
 Fax:708-469-2559  
[JLicar@aislabs.com](mailto:JLicar@aislabs.com)

Item#	Quantity	Item	Unit Price	Adjusted Unit Price	Extended Price
<b>Monthly Items</b>					
1)	1	AIS Managed Services - Per Site - Includes up to 6 servers - Includes up to 83 workstations - Includes once a week onsite visit	\$8,001.49	\$8,001.49	\$8,001.49
<b>Monthly Total</b>					<b>\$8,001.49</b>

**EXHIBIT D**

To approve this quote/proposal and the scope of work, please sign, date and return with the required down-payment noted above (if required). Payments should note your CLIENT PO or Internal PO. Please contact [billing@aislabs.com](mailto:billing@aislabs.com) for alternate forms of payment.

**TERMS & CONDITIONS:** All quotes are subject to availability. All timelines are estimates to the best of our judgement until the approval method requirements are met from above. Any additional labor or materials which is out of scope and not listed in this scope will be executed, procured and billed, in addition, to the quote as separate items based upon the client's approval. Equipment is warranted by their respective manufacturers.

**BILLING:** Down-payment amounts are determined by the equipment and/or labor needs, the client's history of Days Sales Outstanding (DSO) and/or past history with CONSULTANT, Inc. of any kind. After the initial down-payment (if required), you will be billed upon any completion of agreed milestones or when the scope of work is completed. These bill(s) will be '**DUE UPON RECEIPT**.' Any labor that is marked as an 'ESTIMATE,' will be billed in actual time at milestones noted in the proposal, or when work is complete. Overdue invoices shall be subject to a monthly interest charge. In addition, the customer shall reimburse all costs and expenses for attorney fees incurred in the collecting of any amounts past due.

**FINANCING:** CONSULTANT does provide Fair-Market-Value and \$1 buy out financing. Please reach out to your CONSULTANT representative if you wish to explore these options.

Authorizing Name:

\_\_\_\_\_

Authorizing Signature:

\_\_\_\_\_

Date:

\_\_\_\_\_

Client PO (Optional): \_\_\_\_\_

EXHIBIT D



All Information Services, Inc.
1815 S Meyers Road, Suite 820
Oakbrook Terrace, Illinois 60181
Phone (708) 352-7050 | Fax (708) 469-2559

Name The City of Darien Date 02/01/2023
Address 1702 Plainfield Road Site Telephone Number (630) 852-5000
City, State, Zip Darien, IL 60561 Agreement No. 2305
Site Contact Lisa Klemm Site Contact Telephone (630) 852-5000

MASTER SERVICES AGREEMENT

All Information Services, Inc. ("AIS" or "Consultant") and The City of Darien ("CLIENT") agree as follows:

- 1. SERVICE. Consultant will provide IT Managed Professional Services ("Service") as outlined in this agreement...
2. SERVICE, SITE, TERM, AND CHARGE. Consultant shall provide Service at the Service Site(s) for a period of 12 months...
3. REGULAR SERVICE. Mondays and Wednesdays shall be regular on-site service days for Client...
4. EMERGENCY SERVICE. Consultant shall perform emergency Service promptly without regard to the time of day...
5. THIRD PARTY EQUIPMENT: The decision to acquire hardware, software (in any form), supplies or service...
6. PERSONNEL. Consultant shall provide all personnel necessary to complete the services...
a. APPROVAL AND USE OF SUBCONTRACTORS. Consultant shall perform services with its own personnel...
b. Removal of Personnel and Subcontractors. If any personnel or subcontractor fails to perform the Services...



amount contained in this Agreement or for a delay or extension of the Time of Performance as a result of any such removal or replacement.

## 7. CONFIDENTIAL INFORMATION.

- a. **Confidential Information.** In the performance of this Agreement, the parties may have access to or receive certain information in the possession of the other party that is not generally known to members of the public ("Confidential Information"). The parties acknowledge that Confidential Information includes, but is not limited to, proprietary information, copyrighted material, educational records, employee data, financial information, information relating to health records, residential and commercial utility account data, and other information of a personal nature. Each party shall not use or disclose any Confidential Information or any finished or unfinished, documents, screens, reports, writings, procedural manuals, forms, source code, object code, work flow charts, methods, processes, data, data studies, drawings, maps, files, records, computer printouts, designs, equipment descriptions, or other materials prepared or generated as a result of this Agreement ("Work Product") without the prior written consent of the other party except as provided in Section 7.b of this Master Agreement. Each party will use appropriate administrative, technical and physical safeguards to prevent the improper use or disclosure of any Confidential Information received from or on behalf of the other party. Upon the expiration or termination of this Agreement, each party shall promptly cease using and shall return or destroy (and certify in writing destruction of) all Confidential Information furnished by the other party along with all copies thereof in its possession including copies stored in any computer memory or storage medium; provided however that the City may retain documents as necessary to comply with the Local Records Act.
- b. **Dissemination of Information.** Each party shall not disseminate any information obtained in performance of Services to a third party without the prior written consent of the other party; provided however that the City may disclose documents necessary to comply with the Freedom of Information Act, court order, or as may otherwise be required by law in good faith reliance upon the advice of its legal counsel without obtaining prior written consent of Consultant. Each party shall not issue publicity news releases or grant press interviews during or after the performance of the Services, except as may be required by law or with the prior written consent of the other party. If a Party is required to disclose Confidential Information of the other Party pursuant to governmental authority, law, decree, or regulation, or is presented with a request for documents by any administrative agency or with a subpoena or court order regarding any Confidential Information and/or Work Product which may be in its possession as a result of Services provided under this Agreement, such party shall immediately give notice to the other party with the understanding that the other party shall have the opportunity to contest such process by any means available to it prior to submission of any documents to a court or other third party; provided, however, that disclosures made pursuant to the Freedom of Information Act shall be made in accordance with Section 7.e of this Agreement and shall not require notice to the other Party. The parties shall not be obligated to withhold delivery of documents beyond the time ordered by a court of law or administrative agency, unless the request for production or subpoena is quashed or withdrawn, or the time to produce is otherwise extended. Each party shall cause its personnel, staff and subcontractors, if any, to undertake the same obligations regarding confidentiality and dissemination of information as agreed to by it under this Agreement.
- c. **Ownership.** Consultant agrees that, to the extent permitted by law, any and all Work Product shall exclusively be deemed "works for hire" within the meaning and purview of the United States Copyright Act, 17 U.S.C. § 101 et seq subject to the terms of this Agreement. To the extent any Work Product does not qualify as a "work for hire," Consultant irrevocably grants, assigns, and transfers to the City all right, title, and interest in and to the Work Product in all media throughout the world in perpetuity and all intellectual property rights therein, free and clear of any liens, claims, or other encumbrances, to the fullest extent permitted by law. All intellectual property, Confidential Information, and Work Product shall at all times be and remain the property of the City. Consultant shall execute all documents and perform all acts that the City of Darien may request in order to assist the City of Darien in perfecting or protecting its rights in and to the Work Product and all intellectual property rights relating to the Work Product. All of the foregoing items shall be delivered to the City of Darien upon demand at any time and in any event, shall be promptly delivered to the City of Darien upon expiration or termination of this Agreement within three (3) business days of demand. In addition, Consultant shall return the City of Darien's data in the format requested by the City of Darien. If any of the above items are lost or damaged while in Consultant's possession, such items shall be restored or replaced at Consultant's expense. Notwithstanding the foregoing, the Parties agree that the Consultant has created, acquired, owns or otherwise has rights in, and may, in connection with the provision of the Services or Deliverables, use, provide, modify, create, acquire or otherwise obtain rights in, methods, methodologies, procedures, processes, know-how, techniques, models, templates, and tools that are not explicitly described as Deliverables and do not constitute Work Product, including any materials developed before the applicable Task Order, provided by the Consultant or its suppliers or licensors, which shall be the sole and exclusive property of the Consultant or such suppliers or licensors, as appropriate, and all rights related thereto, including, without limitation, copyrights, trademarks, trade secrets, patents, and other intellectual property or proprietary rights, are hereby exclusively reserved by the Consultant or its applicable owner. Further, the work papers prepared pursuant to this Agreement (i.e., the Consultant's internal documentation intended to document and substantiate the Services and Deliverables) are the sole and exclusive property of the Consultant, constitute confidential, proprietary and trade secret information, and will be retained by the Consultant in accordance with our policies and procedures and all applicable laws.
- d. **Injunctive Relief.** In the event of a breach or threatened breach of this Section 7, each party acknowledge and agree that the other party would suffer irreparable injury not compensable by money damages and would not have an adequate remedy at law. Accordingly, each party agrees that the other party shall be entitled to seek immediate injunctive relief to prevent or curtail any such breach, threatened or actual. The foregoing shall be in addition and without prejudice to such rights that the parties may have in equity, by law or statute.

- e. **Freedom of Information Act.** Consultant acknowledges that this Agreement and all documents submitted to the City of Darien related to the Agreement award are a matter of public record and are subject to the Illinois Freedom of Information Act (5 ILCS 140/1) and any other comparable state or federal laws now existing or adopted later. The City of Darien will make all reasonable and lawful efforts to assert applicable and valid exemptions from disclosure for information and records that Consultant designates as trade secrets or commercial or financial information furnished to the City of Darien under a claim that such information or records are proprietary, privileged, or confidential.
  - f. **Survival.** The provisions of this Section shall survive the termination or expiration of the Agreement.
8. **FORCEMAJEURE.** Consultant shall have no liability for delays, failure in performance or damages due to fire, explosion, lightning, pest damage, power surges or failures, strikes or labor disputes, water, acts of God, the elements, war, civil disturbances, acts of civil or military authorities or the public enemy, inability to secure raw materials, transportation facilities, fuel or energy shortages, acts or causes beyond Consultant's control whether or not similar to the foregoing.
  9. **NON-SOLICITATION.** The City of Darien acknowledges that Consultant, and Consultant acknowledges that The City of Darien has a legitimate and reasonable desire to retain its personnel and enjoy the benefit of each respective organization's investment in its personnel. During the course of this Agreement, and for eighteen (18) months subsequent to the termination of this Agreement, both Consultant and The City of Darien are prohibited from recruiting active Employees from the partner organization for hire or offering assistance in possible recruitment of Employees.
  10. **REMEDIES AND LIMITATION OF LIABILITY.** In the event of any material breach of this Contract by Consultant which shall continue for sixty (60) or more days after written notice of such breach (including a reasonably detailed statement of the nature of such breach) shall have been given to Consultant by The City of Darien, The City of Darien may(i) terminate this Agreement in accordance with Section 12 of this Agreement without penalty by providing written notice thereof to Consultant, (ii) the City of Darien may require the Consultant, within a reasonable time, to complete or correct all or any part of the Services that are the subject of the breach; and to take any or all other action necessary to bring the Consultant and the Services into compliance with this Agreement; (iii) the City of Darien may withhold from any payment, whether or not previously approved, or may recover from the Consultant, any and all costs, including attorneys' fees and administrative expenses, incurred by the City of Darien as the result of any breach by the Consultant or as a result of actions taken by the City of Darien in response to any breach by the Consultant . . In the event The City of Darien fails to pay the charge for Service or Additional Services when due, Consultant shall have the right to suspend its performance under this Agreement upon providing verbal or written notice thereof to Buyer and/or to terminate this Agreement if The City of Darien has not paid Consultant all amounts due within thirty (30) days of Consultant's written notice thereof. **THE PARTIES AGREE THAT THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, WRITTEN OR ORAL, ARE EXCLUDED FROM THIS AGREEMENT AND SHALL NOT APPLY TO THE SECURITY EQUIPMENT AND/OR SERVICES PROVIDED UNDER THIS AGREEMENT WHETHER PROVIDED BY CONSULTANT PURSUANT TO ITS OBLIGATIONS TO PROVIDE SERVICE OR ADDITIONAL SERVICES OR TO ANY SERVICE OR ADDITIONAL SERVICES PERFORMED UNDER THIS AGREEMENT. IN NO EVENT WILL CONSULTANT BE LIABLE FOR ANY LOST PROFITS OR BUSINESS OPPORTUNITIES, OR FOR ANY SPECIAL, INDIRECT, OR CONSEQUENTIAL DAMAGES. CONSULTANT SHALL NOT BE LIABLE FOR ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY NATURE WHATSOEVER FOR ANY BREACH OF THIS AGREEMENT OR FOR ANY ACTION ARISING OUT OF ITS PERFORMANCE UNDER THIS AGREEMENT.**
  11. **CANCELLATION/TERMINATION.** The City of Darien may terminate this agreement at any time, for any reason in its sole discretion, upon sixty (60) days written notice to Consultant. In the event this Agreement is terminated by either party for convenience, and not due to any breach of this Agreement, neither party shall have any further obligation to the other party except that Consultant shall refund to The City of Darien any portion of the charge paid for Service for the period subsequent to the effective date of termination less any amounts then due Consultant for Service and/or Additional Services performed prior to such termination. Termination of this Agreement by Consultant shall not constitute a waiver by Consultant of any amounts due Consultant for Service or Additional Services. Consultant may terminate this agreement at any time, for any reason in its sole discretion, upon ninety (90) days written notice to The City of Darien. Upon such termination effective date, charges shall be prorated and refunded to The City of Darien. If you fail to perform any material term or condition of this Agreement (e.g., fail to pay any charge when due) and such failure continues for thirty (30) days after receipt of written notice, you shall be in default and Consultant may terminate this Agreement and exercise any available rights.
  12. **TERMINATION FOR CAUSE.** Customer may terminate the whole or any part of this Agreement, by written notice of default to Consultant, in any one of the following circumstances:
    - a. If Vendor fails to perform any duties or obligations within the time specified herein or any written extension thereof granted by Customer.
    - b. If Vendor so fails to make progress as to endanger performance of this Agreement in accordance with its terms.
    - c. If Vendor fails to comply with any of the material terms and conditions of this Agreement. Such termination shall become effective if Vendor does not cure such failure within a period of ten (10) days after written notice of default by Customer.
    - d. If the other party is declared insolvent or bankrupt, or makes an assignment for the benefit of creditors, or a receiver is appointed or any proceeding is demanded by, for or against the other under any provision of the Federal Bankruptcy Act or any amendment thereof.

Upon termination, Customer may procure, upon such terms as it shall deem appropriate, services similar to those so terminated. Vendor shall continue performance of this Agreement to the extent not terminated.

13. **DISPUTES.** A. Any controversy or claim, whether based on contract, tort, strict liability, fraud, misrepresentation, or any other legal theory, related directly or indirectly to this Agreement ("Dispute") shall be resolved solely in accordance with the terms of this agreement. If a Dispute arises, the parties will endeavor to resolve the dispute through good faith negotiation within forty-five days (45) of notification of the

Dispute. If the Dispute cannot be settled through good faith negotiation, Consultant and The City of Darien will file the Dispute in the 18th Judicial Circuit Court, DuPage County, Illinois. The parties, their representatives, other participants and the arbitrator shall hold the existence, content and result of arbitration.

- 14. TRANSITION UPON TERMINATION.** Upon termination or prior to expiration of the Term or any applicable Renewal Term, the City shall begin transition efforts and Consultant shall assist with such transition. Consultant and the City shall cooperate in good faith in order to effectuate a smooth and harmonious transition from Consultant to the City, or to any other person or entity the City may designate, and to maintain during such period of transition the same quality of services otherwise afforded to the City pursuant to the terms hereof. During any transition period as described in this section, Consultant shall timely deliver to the City or provide proof of destruction of all City of Darien Confidential Information and timely provide to the City all Work Product, City data, and other data and records provided to Consultant during the performance of the Services to the City in the form reasonably requested by the City/
- 15. RELATIONSHIP OF THE PARTIES.** The Consultant shall act as an independent contractor in providing and performing the Services. Nothing in, nor done pursuant to, this Agreement shall be construed (i) to create the relationship of principal and agent, employer and employee, partners, or joint ventures between the City and Consultant; or (ii) to create any relationship between the City and any subcontractor of the Consultant.
- 16. CONFLICT OF INTEREST.** The Consultant represents and certifies that, to the best of its knowledge, (1) no elected or appointed City official, employee or agent is interested in the business of the Consultant or in this Agreement, or has personally received payment or other consideration for this Agreement; (2) as of the date of this Agreement neither the Consultant nor any person employed or associated with the Consultant has any interest that would conflict in any manner or degree with the performance of the obligations under this Agreement; and (3) neither the Consultant nor any person employed by or associated with the Consultant shall at any time during the term of this Agreement obtain or acquire any interest that would conflict in any manner or degree with the performance of the obligations under this Agreement.
- 17. NO COLLUSION.** The Consultant represents and certifies that the Consultant is not barred from contracting with a unit of state or local government as a result of (i) a delinquency in the payment of any tax administered by the Illinois Department of Revenue unless the Consultant is contesting, in accordance with the procedures established by the appropriate revenue act, its liability for the tax or the amount of the tax, as set forth in Section 11-42.1-1 et seq. of the Illinois Municipal Code, 65 ILCS 5/11-42.1-1 et seq.; or (ii) a violation of either Section 33E-3 or Section 33E-4 of Article 33E of the Criminal Code of 1961, 720 ILCS 5/33E-1 et seq. The Consultant represents that the only persons, firms, or corporations interested in this Agreement as principals are those disclosed to the City prior to the execution of this Agreement, and that this Agreement is made without collusion with any other person, firm, or corporation. If at any time it shall be found that the Consultant has, in procuring this Agreement, colluded with any other person, firm, or corporation, then the Consultant shall be liable to the City for all loss or damage that the City may suffer, and this Agreement shall, at the City's option, be null and void.
- 18. SEXUAL HARASSMENT POLICY.** The Consultant certifies that it has a written sexual harassment policy in full compliance with Section 2-105(A)(4) of the Illinois Human Rights Act, 775 ILCS 5/2-105(A)(4).
- 19. PATRIOT ACT COMPLIANCE.** The Consultant represents and warrants to the City that neither it nor any of its principals, shareholders, members, partners, or affiliates, as applicable, is a person or entity named as a Specially Designated National and Blocked Person (as defined in Presidential Executive Order 13224) and that it is not acting, directly or indirectly, for or on behalf of a Specially Designated National and Blocked Person. The Consultant further represents and warrants to the City that the Consultant and its principals, shareholders, members, partners, or affiliates, as applicable, are not, directly or indirectly, engaged in, and are not facilitating, the transactions contemplated by this Agreement on behalf of any person or entity named as a Specially Designated National and Blocked Person. The Consultant hereby agrees to defend, indemnify and hold harmless the City, its corporate authorities, and all City elected or appointed officials, officers, employees, agents, representatives, engineers, and attorneys, from and against any and all claims, damages, losses, risks, liabilities, and expenses (including reasonable attorneys' fees and costs) arising from or related to any breach of the representations and warranties in this subsection.
- 20. COMPLIANCE WITH LAWS AND GRANTS.** Consultant shall give all notices, pay all fees, and take all other action that may be necessary to ensure that the Services are provided, performed, and completed in accordance with all required governmental permits, licenses, or other approvals and authorizations that may be required in connection with providing, performing, and completing the Services, and with all applicable statutes, ordinances, rules, and regulations, including without limitation the Fair Labor Standards Act; any statutes regarding qualification to do business; any statutes prohibiting discrimination because of, or requiring affirmative action based on, race, creed, color, national origin, age, sex, or other prohibited classification, including, without limitation, the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101 et seq., and the Illinois Human Rights Act, 775 ILCS 5/1-101 et seq. Consultant shall also comply with all conditions of any federal, state, or local grant received by Owner or Consultant with respect to this Contract or the Services.

Consultant shall be solely liable for any fines or civil penalties that are imposed by any governmental or quasi-governmental agency or body that may arise, or be alleged to have arisen, out of or in connection with Consultant's, or its subcontractors', performance of, or failure to perform, the Services or any part thereof.

Every provision of law required by law to be inserted into this Contract shall be deemed to be inserted herein.

- 21. ELECTRONIC DOCUMENTS:** The parties agree that they may provide this Agreement in electronic form or may provide a reproduction of this Agreement from its electronic copy in the event of any dispute regarding the rights and obligations of the parties under this Agreement. The parties agree that any document in electronic format or any document reproduced from an electronic format shall not be denied legal effect, validity, or enforceability and shall meet any requirement to provide an original or hard copy.
- 22. INDEMNITY:** Consultant shall indemnify, defend and hold harmless The City of Darien, its advisory board, executive board, individual board members, officers, administrators, employees, agents, representatives, and volunteers from and against any and all claims, demands, causes of action, losses, liabilities, damages and penalties, including reasonable attorney's fees and court costs, to the

extent arising from any negligent act, willful misconduct, or omission of Consultant or any of its employees or subcontractors. In no event will Consultant be liable for lost profits, diminution or good will, or any other indirect, incidental, consequential, punitive or other special damages. The City of Darien shall indemnify, defend and hold harmless Consultant, its individual board members, officers, administrators, employees, agents, representatives, and volunteers from and against any and all claims, demands, causes of action, losses, liabilities, damages and penalties, including reasonable attorney's fees and court costs, to the extent arising from any negligent act, willful misconduct or omission of The City of Darien or any of its employees or subcontractors. In no event will The City of Darien be liable for lost profits, diminution or good will, or any other indirect, incidental, consequential, punitive or other special damages.

- 23. INSURANCE:** Consultant shall procure and continuously maintain through an insurance company or companies licensed to conduct business in Illinois insurance with coverage and limits as specified below, and, shall cause The City of Darien to be named as additional insureds on these policies by endorsement. All such insurers shall carry a Best Key Guide Rating of A / XV. The commercial general liability and automobile liability policies shall be endorsed to reflect that coverage is primary to and noncontributory with any other insurance available to The City of Darien. The commercial general liability policy shall by endorsement provide contractual liability coverage including the indemnity obligations provided in this agreement. Each such policy shall include by endorsement a requirement of at least 30 days written notice to The City of Darien prior to any termination, cancellation or material amendment to that policy. By specific written request, Consultant shall furnish to The City of Darien certificate(s) of insurance, policies, and endorsements reflecting the required coverages. The type and minimum limits of insurance required are as follows:

<u>Type</u>	<u>Limits</u>
Commercial General Liability	\$1,000,000 (Per Occurrence) \$2,000,000 (Aggregate)
Automobile Liability:	\$1,000,000 (combined single limit)
Workers' Compensation:	Statutory Minimum
Professional Liability: (errors and Omissions)	\$1,000,000 (Per Occurrence and Aggregate)

Consultant shall maintain professional liability insurance for one (1) year following completion of all services under this agreement.

- 24. CITY DATA.** The City has developed various types of data and information, such as digital map information through Geographic Information Systems Technology and through Auto CAD and other methods (collectively "City Data") concerning the real property located within the City. If requested to do so by the Consultant, the City agrees to supply the Consultant with a digital copy of the City Data, subject to the following conditions:

- a. **LIMITED ACCESS TO DATA.** The City Data provided by the City shall be limited to the scope of the Work that the Consultant is to provide for the City;
- b. **PURPOSE OF CITY DATA.** The Consultant shall limit its use of the City Data to its intended purpose of furtherance of the Work; and
- c. **AGREEMENT WITH RESPECT TO CITY DATA.** The Consultant does hereby acknowledge and agree that:
  - i. **Trade Secrets of the City.** The City Data constitutes proprietary materials and trade secrets of the City and, shall remain the property of the City;
  - ii. **Consent of City Required.** The Consultant will not provide or make available the City Data in any form to anyone without the prior written consent of the City Administrator;
  - iii. **Supply to City.** At the request of the City, the Consultant shall supply the City with any and all information that may have been developed by the Consultant based on the City Data;
  - iv. **No Guarantee of Accuracy.** The City makes no guarantee as to the accuracy, completeness, or suitability of the City Data in regard to the Consultant's intended use thereof; and
  - v. **Discontinuation of Use.** At such time as the Services have been completed to the satisfaction of the City, the Consultant shall cease its use of the City Data for any purpose whatsoever; and, upon request, an authorized representative of the City shall be afforded sufficient access to the Consultant's premises and data processing equipment to verify that all use of the City Data has been discontinued.

**25. FEES, PAYMENT, NET TERMS & COLLECTION**

- a. **FEES.** The fees due to Consultant for services are set forth in on the Invoice referenced in Section 1. Payment for all work performed by Consultant in connection with services hereunder shall be made by The City of Darien in accordance with the payment schedule set forth as referenced in Section 1. Consultant shall submit invoices, or other required documentation requesting payment. Except as otherwise provided, or subsequent Addendums, The City of Darien shall make payment within the agreed upon terms outlined in Section 17 NET TERMS after receipt of an invoice or other required documentation. Any dispute of invoiced charges must occur within the NET TERMS period of receipt. Invoices or other documentation identifying expenses to be reimbursed hereunder shall be accompanied by original receipts evidencing the relevant expenses.

- b. **PAYMENT.** City of Darien shall pay any invoices due pursuant to the Illinois Prompt Payment Act, 50ILCS 505/1. Payment for Services rendered are subject to the following Terms and Conditions. In an effort to streamline and simplify the accounting process, we offer the following for all Clients.
- c. **NET TERMS.** City of Darien shall pay within Net 60 – Payment 60 days after invoice date. Any Client desiring NET Terms for payment is required to complete a Business Credit Application and is subject to approval. NET Terms determination will be made based upon The City of Darien history and creditworthiness at the sole discretion of Consultant each month payment is delinquent in accordance with the Illinois Local Government Prompt Payment Act
  - i. For any new Client, Interim NET Terms will be offered provided that a valid Credit Card is placed on file pending Credit Application Approval.

Any payment which is delinquent in accordance with the provided NET Terms shall be subject to a 2% Late-Payment Penalty to be applied to the balance at the beginning of each month payment is delinquent.

- d. **COLLECTION.** Pursuant to the NET TERMS provided, payment in full is due within the NET TERM period specified. If payment is not received within thirty (30) days post NET TERM, The City of Darien's Credit Card on file will be charged for the balance due. If the Balance Due is unable to be settled by Credit Card Authorization, The City of Darien will be notified and will have until Balance reaches sixty (60) post NET TERM due to satisfy payment, otherwise Balance shall be remitted to a Collection Agency of CONSULTANT's choosing for settlement.
- 26. Out of Scope Work:** Consultant will perform services for the City of Darien from time to time as set forth in pre-approved work deemed out of scope to this Managed Service contract. This work will be issued by the City on a project-by-project basis (the "Services"). Out of Scope work will be presented in a quote or proposal format acceptable to the City and executed by the Parties. Each Out of Scope quote or proposal will include the Services to be performed under that quote (collectively a "Project"); the time schedule for the Project, including without limitation a date for completion of the Project; and the pricing schedule for the Project. See Schedule B and C.
- 27. CITY COUNCIL AUTHORITY.** Notwithstanding any provision of this Agreement, any negotiations or agreements with, or representations by the Consultant to vendors shall be subject to the approval of the City Council. The City shall not be liable to any vendor or other third party for any agreements made by the Consultant, purportedly on behalf of the City, without the knowledge and approval of the City Council.

**Records and Ownership of Documents.** All records of Consultant related to the provision of services hereunder and records produced or maintained in accordance with this agreement, are to be retained and stored in accordance the City's records retention and disposal policies. Those records which constitute "public records" under Illinois law are to be at the City offices or accessible and opened for public inspection in accordance with applicable law and City policies. Public record requests shall be processed in accordance with City policies. Consultant agrees to allow access by the City and the public to all documents or records subject to disclosure under applicable law.

Any work product, materials, or documents produced by Consultant for the City under this agreement shall become property of the City upon delivery and shall not be made subject to any copyright unless authorized by the City. Consultant waives any right to prevent its name from being used in connection with services.

**28. GENERAL PROVISIONS.**

- a. **AMENDMENT.** No amendment or modification to this Agreement shall be effective unless and until such amendment or modification is in writing, properly approved in accordance with applicable procedures, and executed.
- b. **ASSIGNMENT.** This Agreement may not be assigned by the City or by the Consultant without the prior written consent of the other party.
- c. **BINDING EFFECT.** The terms of this Agreement shall bind and inure to the benefit of the Parties hereto and their agents, successors, and assigns.
- d. **NOTICE.** Any notice or communication required or permitted to be given under this Agreement shall be in writing and shall be delivered (i) personally, (ii) by a reputable overnight courier, (iii) by certified mail, return receipt requested, and deposited in the U.S. Mail, postage prepaid, (iv) by facsimile, or (v) by electronic internet mail ("e-mail"). Facsimile notices shall be deemed valid only to the extent that they are (a) actually received by the individual to whom addressed and (b) followed by delivery of actual notice in the manner described in either (i), (ii), or (iii) above within three business days thereafter at the appropriate address set forth below. E-mail notices shall be deemed valid and received by the addressee thereof when delivered by e-mail and (a) opened by the recipient on a business day at the address set forth below, and (b) followed by delivery of actual notice in the manner described in either (i), (ii) or (iii) above within three business days thereafter at the appropriate address set forth below. Unless otherwise expressly provided in this Agreement, notices shall be deemed received upon the earlier of (a) actual receipt; (b) one business day after deposit with an overnight courier as evidenced by a receipt of deposit; or (c) three business days following deposit in the U.S. mail, as evidenced by a return receipt. By notice complying with the requirements of this Subsection, each Party shall have the right to change the address or the addressee, or both, for all future notices and communications to such party, but no notice of a change of addressee or address shall be effective until actually received.

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

City of Darien  
1702 Plainfield Road  
Darien, Illinois 60555  
Attention: Lisa Klemm  
E-mail: lklemm@darienil.gov

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

All Information Services, Inc.  
1815 S Meyers Road, Suite 820,  
Oakbrook Terrace, IL 60181  
Attention: John Licar  
E-mail: [jlicar@aislabs.com](mailto:jlicar@aislabs.com)

- e. **THIRD PARTY BENEFICIARY.** No claim as a third party beneficiary under this Agreement by any person, firm, or corporation other than the Consultant shall be made or be valid against the City.
- f. **PROVISIONS SEVERABLE.** If any term, covenant, condition, or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions shall remain in full force and effect and shall in no way be affected, impaired or invalidated.
- g. **TIME.** Time is of the essence in the performance of this Agreement.
- h. **GOVERNING LAWS.** This Agreement shall be interpreted according to the internal laws, but not the conflict of laws rules, of the State of Illinois.
- i. **ENTIRE AGREEMENT.** This Agreement constitutes the entire agreement between the parties and supersedes any and all previous or contemporaneous oral or written agreements and negotiations between the City and the Consultant with respect to the Proposal and the Services.
- j. **WAIVER.** No waiver of any provision of this Agreement shall be deemed to or constitute a waiver of any other provision of this Agreement (whether or not similar) nor shall any such waiver be deemed to or constitute a continuing waiver unless otherwise expressly provided in this Agreement.
- k. **CONSENTS.** Unless otherwise provided in this Agreement, whenever the consent, permission, authorization, approval, acknowledgement, or similar indication of assent of any party to this Agreement, or of any duly authorized officer, employee, agent, or representative of any party to this Agreement, is required in this Agreement, the consent, permission, authorization, approval, acknowledgement, or similar indication of assent shall be in writing.
- l. **GRAMMATICAL USAGE AND CONSTRUCTION.** In construing this Agreement, pronouns include all genders and the plural includes the singular and vice versa.
- m. **HEADINGS.** The headings, titles, and captions in this Agreement have been inserted only for convenience and in no way define, limit, extend, or describe the scope or intent of this Agreement.
- n. **EXHIBITS.** Exhibits A, B, C, and D are attached hereto, and by this reference incorporated in and made a part of this Agreement. In the event of a conflict between the Exhibit and the text of this Agreement, the text of this Agreement shall control.
- o. **RIGHTS CUMULATIVE.** Unless expressly provided to the contrary in this Agreement, each and every one of the rights, remedies, and benefits provided by this Agreement shall be cumulative and shall not be exclusive of any other such rights, remedies, and benefits allowed by law.
- p. **COUNTERPART EXECUTION.** This Agreement may be executed in several counterparts, each of which, when executed, shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed, such parties acting by their representatives being thereunto duly authorized.

**ALL INFORMATION SERVICES, INC.**

**The City of Darien**

By: \_\_\_\_\_

By: \_\_\_\_\_

Print Name: John Licar

Title: IT Consultant

Date: 05/01/2023

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR TO ENTER INTO AN AGREEMENT WITH AIS, INC. FOR COMPUTER CONSULTING SERVICES IN THE AMOUNT OF \$96,024**

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DARIEN, DU PAGE COUNTY, ILLINOIS**, as follows:

**SECTION 1:** The City Council of the City of Darien hereby authorizes the City Administrator to enter into an agreement with AIS, Inc. for computer consulting services in the amount of \$96,024, attached hereto as “Exhibit A”.

**SECTION 2:** This Resolution shall be in full force and effect from and after its passage and approval as provided by law.

**PASSED BY THE CITY COUNCIL OF THE CITY OF DARIEN, DU PAGE COUNTY, ILLINOIS**, this 17<sup>th</sup> day of April 2023.

AYES: \_\_\_\_\_

NAYS: \_\_\_\_\_

ABSENT: \_\_\_\_\_

**APPROVED BY THE MAYOR OF THE CITY OF DARIEN, DU PAGE COUNTY, ILLINOIS**, this 17<sup>th</sup> day of April 2023.

\_\_\_\_\_  
JOSEPH MARCHESE, MAYOR

ATTEST:

\_\_\_\_\_  
JOANNE E. RAGONA, CITY CLERK

APPROVED AS TO FORM:

\_\_\_\_\_  
CITY ATTORNEY



## EXHIBIT A

**CONSULTANT Emergency Service Response  
Service Level Agreement**

**Managed IT Services SLAs**

Severity	Description	Initial Response Time
Emergency	Severe business impact; loss of network, server, or email	1 Hour
High	Moderate business impact or high personal impact	2 Hours
Medium	Lower business impact or moderate individual impact	8 Business Hours
Low	Low business or individual impact	16 Business Hours
Very Low	No productivity or service level impact	5 Business Days

**Managed Security Services SLAs**

Category	Outage Notification	Mean Time to Restore	Policy Change	Definition Updates
Antivirus	30 Minutes from Alarm	4 hours	24 hours	3 hours
Antispam	30 Minutes from Alarm	4 hours	24 hours	3 hours
Application Control	30 Minutes from Alarm	4 hours	24 hours	N/A
Firewall	30 Minutes from Alarm	4 hours	24 hours	N/A
Data Loss Prevention	30 Minutes from Alarm	4 hours	24 hours	N/A
Intrusion Prevention	30 Minutes from Alarm	4 hours	24 hours	3 hours
Remote Access VPN	30 Minutes from Alarm	4 hours	24 hours	N/A
SiteConnect VPN	30 Minutes from Alarm	4 hours	24 hours	N/A
Reporting	30 Minutes from Alarm	4 hours	24 hours	N/A
Vulnerability Scans	N/A	N/A	24 hours	When run
Web Content Filtering	30 Minutes from Alarm	4 hours	24 hours	24 hours

**Managed Cloud Services SLAs**

Category	Severity	Response Time	Resolution Time	Escalation Threshold
Emergency – Complete loss of Internet accessibility	Urgent	Within 4 hours	Best Effort	8 hours

**EXHIBIT B**  
**CONSULTANT Managed Services Included in Agreement**

<b>Defined Managed Services Checklist</b>		
<b>Tasks:</b>	<b>Frequency:</b>	<b>Included:</b>
<b>General</b>		
Remote 8x5 Support	As needed	YES
Remote 24x7 Support	As needed	YES
Onsite Support	1 day per week	YES
Document software and hardware changes	As performed	YES
Reports of work accomplished, work in progress, etc.	Monthly / As Needed	YES
<b>Workstations</b>		
Manage workstations	Ongoing	YES
Upgrades or rebuilds (up to 3 computers, laptops or tablets)	Per Year	YES
<b>Servers</b>		
Manage Servers covered under this Agreement	Ongoing	YES
Check print queues	As needed	YES
Monitor all Server services	Ongoing	YES
Keep Service Packs, Patches, and Hot Fixes current as per company policy	Ongoing	YES
Check event logs for potential issues	Ongoing	YES
Monitor hard drive free space	Ongoing	YES
Exchange Server user/mailbox management	Per Request	YES
Monitor Active Directory replication	Ongoing	YES
Monitor WINS replication	As needed	YES
SQL server management	As needed	YES
Servers reboot if needed	As needed	YES
Run defragmentation and check disk tool on all drives	As needed	YES
Schedule off time server maintenance	As needed	YES
Install supported software upgrades	As needed	YES
Setup and manage users and groups in the Active Directory	As needed	YES
Alert Darien to dangerous conditions: <ul style="list-style-type: none"> <li>• Memory running low</li> <li>• Hard drive showing signs of failure</li> <li>• Hard drive running out of disk space</li> <li>• Controllers losing interrupts</li> <li>• Network Cards report unusual collision activity</li> </ul>	As needed	YES
File restore from existing backup (deleted files and corrupted files)	As needed	YES
Clean and prune directory structure, keep efficient and active	As needed	YES
<b>Disaster Recovery</b>		
Alert Darien to dangerous conditions	As needed	YES
<b>Networks</b>		
Check router logs	As needed	YES
Performance Monitoring/Capacity Planning	Ongoing	YES
Monitor DSU/TSU, switches, hubs, and Internet connectivity, and make sure everything is operational (available for SNMP manageable devices only)	Ongoing	YES
<b>Security</b>		
Anti SPAM email filtering for all users	Ongoing	YES
Windows servers, workstations and 3 <sup>rd</sup> party security patches	Ongoing	YES
Check firewall logs	Daily or as needed	YES
Confirm that antivirus virus definition auto updates have occurred	Daily or as needed	YES
Confirm that antispyware updates have occurred	Daily or as needed	YES
Create new directories, shares and security groups, new accounts, disable/delete old accounts, manage account policies	As needed	YES
File system management and permissions	As needed	YES
Accounts set up including login restrictions, passwords, security, and applications	As needed	YES
Set up and change security for users and applications	As needed	YES
<b>Applications</b>		
Confirm that standard Microsoft Office Applications are functioning as designed	As needed	YES
Resolve problems with 3 <sup>rd</sup> party software with best effort	As needed	YES

## EXHIBIT C

### Projects and Hardware Replacements

#### **Project / Integration Work / Moves Adds and Changes**

Defined as any service designated to add or increase functionality or capacity and any work that is not designed to support existing systems or persons. Projects / Integration Work are outside the scope of this agreement and as such will be quoted and invoiced separately. Consultant will identify work considered as "Project / Integration Work" in advance. Client written authorization must be given before any work is completed. Project / Integration work will be discussed and provided by both parties as part of the monthly or quarterly strategic planning sessions for efficient and timely implementation.

Examples of Project / Integration Work:

- Installing new wireless access points in the environment
- Labor associated with migrating servers to the cloud
- Replacing existing firewalls with new firewalls
- New office buildouts
- Implementing/Integrating new City or Department wide software applications
- Upgrading servers or adding new computer hardware.

#### **Hardware Replacement Costs**

Hardware replacement costs and labor will be quoted and invoiced separately as a project. Consultant will identify work considered as project work in advance. Client written authorization must be given before any work is completed.

Hardware replacement does not take the form of warranties, extended warranties, manufacturer's support contracts, on-site spares, servers or network equipment. Hardware replacement options will be discussed and provided as part of the monthly or quarterly strategic planning sessions and/or Network Assessment to be sure an appropriate hardware strategy exists for all critical network equipment.

Examples of Hardware Replacement Costs

- User desktops or laptops owned by Client and on Client premises



# Quote

Quote Number: 29875

Internal PO: AIS-29875

Payment Terms:  
Expiration Date: 05/01/2023

### Quote Prepared For

**Lisa Klemm**  
**City of Darien**  
 1702 Plainfield Road  
 Darien, IL 60561  
 United States  
 Phone:630-852-5000  
 LKlemm@darienil.gov

### Quote Prepared By

**John Licar**  
**All Information Services, Inc**  
 1815 S Meyers Road, Suite 820  
 Oakbrook Terrace, IL 60181  
 United States  
 Phone:708-352-7050  
 Fax:708-469-2559  
[JLicar@aislabs.com](mailto:JLicar@aislabs.com)

Item#	Quantity	Item	Unit Price	Adjusted Unit Price	Extended Price
<b>Monthly Items</b>					
1)	1	AIS Managed Services - Per Site - Includes up to 6 servers - Includes up to 83 workstations - Includes once a week onsite visit	\$8,001.49	\$8,001.49	\$8,001.49
				<b>Monthly Total</b>	<b>\$8,001.49</b>

## EXHIBIT D

To approve this quote/proposal and the scope of work, please sign, date and return with the required down-payment noted above (if required). Payments should note your CLIENT PO or Internal PO. Please contact [billing@aislabs.com](mailto:billing@aislabs.com) for alternate forms of payment.

**TERMS & CONDITIONS:** All quotes are subject to availability. All timelines are estimates to the best of our judgement until the approval method requirements are met from above. Any additional labor or materials which is out of scope and not listed in this scope will be executed, procured and billed, in addition, to the quote as separate items based upon the client's approval. Equipment is warranted by their respective manufacturers.

**BILLING:** Down-payment amounts are determined by the equipment and/or labor needs, the client's history of Days Sales Outstanding (DSO) and/or past history with CONSULTANT, Inc. of any kind. After the initial down-payment (if required), you will be billed upon any completion of agreed milestones or when the scope of work is completed. These bill(s) will be '**DUE UPON RECEIPT**.' Any labor that is marked as an 'ESTIMATE,' will be billed in actual time at milestones noted in the proposal, or when work is complete. Overdue invoices shall be subject to a monthly interest charge. In addition, the customer shall reimburse all costs and expenses for attorney fees incurred in the collecting of any amounts past due.

**FINANCING:** CONSULTANT does provide Fair-Market-Value and \$1 buy out financing. Please reach out to your CONSULTANT representative if you wish to explore these options.

Authorizing Name:

\_\_\_\_\_

Authorizing Signature:

\_\_\_\_\_

Date:

\_\_\_\_\_

Client PO (Optional): \_\_\_\_\_

EXHIBIT D



All Information Services, Inc.
1815 S Meyers Road, Suite 820
Oakbrook Terrace, Illinois 60181
Phone (708) 352-7050 | Fax (708) 469-2559

Name The City of Darien Date 02/01/2023
Address 1702 Plainfield Road Site Telephone Number (630) 852-5000
City, State, Zip Darien, IL 60561 Agreement No. 2305
Site Contact Lisa Klemm Site Contact Telephone (630) 852-5000

MASTER SERVICES AGREEMENT

All Information Services, Inc. ("AIS" or "Consultant") and The City of Darien ("CLIENT") agree as follows:

- 1. SERVICE. Consultant will provide IT Managed Professional Services ("Service") as outlined in this agreement...
2. SERVICE, SITE, TERM, AND CHARGE. Consultant shall provide Service at the Service Site(s) for a period of 12 months...
3. REGULAR SERVICE. Mondays and Wednesdays shall be regular on-site service days for Client...
4. EMERGENCY SERVICE. Consultant shall perform emergency Service promptly without regard to the time of day...
5. THIRD PARTY EQUIPMENT: The decision to acquire hardware, software (in any form), supplies or service...
6. PERSONNEL. Consultant shall provide all personnel necessary to complete the services...
a. APPROVAL AND USE OF SUBCONTRACTORS. Consultant shall perform services with its own personnel...
b. Removal of Personnel and Subcontractors. If any personnel or subcontractor fails to perform the Services...

amount contained in this Agreement or for a delay or extension of the Time of Performance as a result of any such removal or replacement.

## 7. CONFIDENTIAL INFORMATION.

- a. **Confidential Information.** In the performance of this Agreement, the parties may have access to or receive certain information in the possession of the other party that is not generally known to members of the public ("Confidential Information"). The parties acknowledge that Confidential Information includes, but is not limited to, proprietary information, copyrighted material, educational records, employee data, financial information, information relating to health records, residential and commercial utility account data, and other information of a personal nature. Each party shall not use or disclose any Confidential Information or any finished or unfinished, documents, screens, reports, writings, procedural manuals, forms, source code, object code, work flow charts, methods, processes, data, data studies, drawings, maps, files, records, computer printouts, designs, equipment descriptions, or other materials prepared or generated as a result of this Agreement ("Work Product") without the prior written consent of the other party except as provided in Section 7.b of this Master Agreement. Each party will use appropriate administrative, technical and physical safeguards to prevent the improper use or disclosure of any Confidential Information received from or on behalf of the other party. Upon the expiration or termination of this Agreement, each party shall promptly cease using and shall return or destroy (and certify in writing destruction of) all Confidential Information furnished by the other party along with all copies thereof in its possession including copies stored in any computer memory or storage medium; provided however that the City may retain documents as necessary to comply with the Local Records Act.
- b. **Dissemination of Information.** Each party shall not disseminate any information obtained in performance of Services to a third party without the prior written consent of the other party; provided however that the City may disclose documents necessary to comply with the Freedom of Information Act, court order, or as may otherwise be required by law in good faith reliance upon the advice of its legal counsel without obtaining prior written consent of Consultant. Each party shall not issue publicity news releases or grant press interviews during or after the performance of the Services, except as may be required by law or with the prior written consent of the other party. If a Party is required to disclose Confidential Information of the other Party pursuant to governmental authority, law, decree, or regulation, or is presented with a request for documents by any administrative agency or with a subpoena or court order regarding any Confidential Information and/or Work Product which may be in its possession as a result of Services provided under this Agreement, such party shall immediately give notice to the other party with the understanding that the other party shall have the opportunity to contest such process by any means available to it prior to submission of any documents to a court or other third party; provided, however, that disclosures made pursuant to the Freedom of Information Act shall be made in accordance with Section 7.e of this Agreement and shall not require notice to the other Party. The parties shall not be obligated to withhold delivery of documents beyond the time ordered by a court of law or administrative agency, unless the request for production or subpoena is quashed or withdrawn, or the time to produce is otherwise extended. Each party shall cause its personnel, staff and subcontractors, if any, to undertake the same obligations regarding confidentiality and dissemination of information as agreed to by it under this Agreement.
- c. **Ownership.** Consultant agrees that, to the extent permitted by law, any and all Work Product shall exclusively be deemed "works for hire" within the meaning and purview of the United States Copyright Act, 17 U.S.C. § 101 et seq subject to the terms of this Agreement. To the extent any Work Product does not qualify as a "work for hire," Consultant irrevocably grants, assigns, and transfers to the City all right, title, and interest in and to the Work Product in all media throughout the world in perpetuity and all intellectual property rights therein, free and clear of any liens, claims, or other encumbrances, to the fullest extent permitted by law. All intellectual property, Confidential Information, and Work Product shall at all times be and remain the property of the City. Consultant shall execute all documents and perform all acts that the City of Darien may request in order to assist the City of Darien in perfecting or protecting its rights in and to the Work Product and all intellectual property rights relating to the Work Product. All of the foregoing items shall be delivered to the City of Darien upon demand at any time and in any event, shall be promptly delivered to the City of Darien upon expiration or termination of this Agreement within three (3) business days of demand. In addition, Consultant shall return the City of Darien's data in the format requested by the City of Darien. If any of the above items are lost or damaged while in Consultant's possession, such items shall be restored or replaced at Consultant's expense. Notwithstanding the foregoing, the Parties agree that the Consultant has created, acquired, owns or otherwise has rights in, and may, in connection with the provision of the Services or Deliverables, use, provide, modify, create, acquire or otherwise obtain rights in, methods, methodologies, procedures, processes, know-how, techniques, models, templates, and tools that are not explicitly described as Deliverables and do not constitute Work Product, including any materials developed before the applicable Task Order, provided by the Consultant or its suppliers or licensors, which shall be the sole and exclusive property of the Consultant or such suppliers or licensors, as appropriate, and all rights related thereto, including, without limitation, copyrights, trademarks, trade secrets, patents, and other intellectual property or proprietary rights, are hereby exclusively reserved by the Consultant or its applicable owner. Further, the work papers prepared pursuant to this Agreement (i.e., the Consultant's internal documentation intended to document and substantiate the Services and Deliverables) are the sole and exclusive property of the Consultant, constitute confidential, proprietary and trade secret information, and will be retained by the Consultant in accordance with our policies and procedures and all applicable laws.
- d. **Injunctive Relief.** In the event of a breach or threatened breach of this Section 7, each party acknowledge and agree that the other party would suffer irreparable injury not compensable by money damages and would not have an adequate remedy at law. Accordingly, each party agrees that the other party shall be entitled to seek immediate injunctive relief to prevent or curtail any such breach, threatened or actual. The foregoing shall be in addition and without prejudice to such rights that the parties may have in equity, by law or statute.

- e. **Freedom of Information Act.** Consultant acknowledges that this Agreement and all documents submitted to the City of Darien related to the Agreement award are a matter of public record and are subject to the Illinois Freedom of Information Act (5 ILCS 140/1) and any other comparable state or federal laws now existing or adopted later. The City of Darien will make all reasonable and lawful efforts to assert applicable and valid exemptions from disclosure for information and records that Consultant designates as trade secrets or commercial or financial information furnished to the City of Darien under a claim that such information or records are proprietary, privileged, or confidential.
  - f. **Survival.** The provisions of this Section shall survive the termination or expiration of the Agreement.
8. **FORCEMAJEURE.** Consultant shall have no liability for delays, failure in performance or damages due to fire, explosion, lightning, pest damage, power surges or failures, strikes or labor disputes, water, acts of God, the elements, war, civil disturbances, acts of civil or military authorities or the public enemy, inability to secure raw materials, transportation facilities, fuel or energy shortages, acts or causes beyond Consultant's control whether or not similar to the foregoing.
  9. **NON-SOLICITATION.** The City of Darien acknowledges that Consultant, and Consultant acknowledges that The City of Darien has a legitimate and reasonable desire to retain its personnel and enjoy the benefit of each respective organization's investment in its personnel. During the course of this Agreement, and for eighteen (18) months subsequent to the termination of this Agreement, both Consultant and The City of Darien are prohibited from recruiting active Employees from the partner organization for hire or offering assistance in possible recruitment of Employees.
  10. **REMEDIES AND LIMITATION OF LIABILITY.** In the event of any material breach of this Contract by Consultant which shall continue for sixty (60) or more days after written notice of such breach (including a reasonably detailed statement of the nature of such breach) shall have been given to Consultant by The City of Darien, The City of Darien may(i) terminate this Agreement in accordance with Section 12 of this Agreement without penalty by providing written notice thereof to Consultant, (ii) the City of Darien may require the Consultant, within a reasonable time, to complete or correct all or any part of the Services that are the subject of the breach; and to take any or all other action necessary to bring the Consultant and the Services into compliance with this Agreement; (iii) the City of Darien may withhold from any payment, whether or not previously approved, or may recover from the Consultant, any and all costs, including attorneys' fees and administrative expenses, incurred by the City of Darien as the result of any breach by the Consultant or as a result of actions taken by the City of Darien in response to any breach by the Consultant . . In the event The City of Darien fails to pay the charge for Service or Additional Services when due, Consultant shall have the right to suspend its performance under this Agreement upon providing verbal or written notice thereof to Buyer and/or to terminate this Agreement if The City of Darien has not paid Consultant all amounts due within thirty (30) days of Consultant's written notice thereof. **THE PARTIES AGREE THAT THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, WRITTEN OR ORAL, ARE EXCLUDED FROM THIS AGREEMENT AND SHALL NOT APPLY TO THE SECURITY EQUIPMENT AND/OR SERVICES PROVIDED UNDER THIS AGREEMENT WHETHER PROVIDED BY CONSULTANT PURSUANT TO ITS OBLIGATIONS TO PROVIDE SERVICE OR ADDITIONAL SERVICES OR TO ANY SERVICE OR ADDITIONAL SERVICES PERFORMED UNDER THIS AGREEMENT. IN NO EVENT WILL CONSULTANT BE LIABLE FOR ANY LOST PROFITS OR BUSINESS OPPORTUNITIES, OR FOR ANY SPECIAL, INDIRECT, OR CONSEQUENTIAL DAMAGES. CONSULTANT SHALL NOT BE LIABLE FOR ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY NATURE WHATSOEVER FOR ANY BREACH OF THIS AGREEMENT OR FOR ANY ACTION ARISING OUT OF ITS PERFORMANCE UNDER THIS AGREEMENT.**
  11. **CANCELLATION/TERMINATION.** The City of Darien may terminate this agreement at any time, for any reason in its sole discretion, upon sixty (60) days written notice to Consultant. In the event this Agreement is terminated by either party for convenience, and not due to any breach of this Agreement, neither party shall have any further obligation to the other party except that Consultant shall refund to The City of Darien any portion of the charge paid for Service for the period subsequent to the effective date of termination less any amounts then due Consultant for Service and/or Additional Services performed prior to such termination. Termination of this Agreement by Consultant shall not constitute a waiver by Consultant of any amounts due Consultant for Service or Additional Services. Consultant may terminate this agreement at any time, for any reason in its sole discretion, upon ninety (90) days written notice to The City of Darien. Upon such termination effective date, charges shall be prorated and refunded to The City of Darien. If you fail to perform any material term or condition of this Agreement (e.g., fail to pay any charge when due) and such failure continues for thirty (30) days after receipt of written notice, you shall be in default and Consultant may terminate this Agreement and exercise any available rights.
  12. **TERMINATION FOR CAUSE.** Customer may terminate the whole or any part of this Agreement, by written notice of default to Consultant, in any one of the following circumstances:
    - a. If Vendor fails to perform any duties or obligations within the time specified herein or any written extension thereof granted by Customer.
    - b. If Vendor so fails to make progress as to endanger performance of this Agreement in accordance with its terms.
    - c. If Vendor fails to comply with any of the material terms and conditions of this Agreement. Such termination shall become effective if Vendor does not cure such failure within a period of ten (10) days after written notice of default by Customer.
    - d. If the other party is declared insolvent or bankrupt, or makes an assignment for the benefit of creditors, or a receiver is appointed or any proceeding is demanded by, for or against the other under any provision of the Federal Bankruptcy Act or any amendment thereof.

Upon termination, Customer may procure, upon such terms as it shall deem appropriate, services similar to those so terminated. Vendor shall continue performance of this Agreement to the extent not terminated.

13. **DISPUTES.** A. Any controversy or claim, whether based on contract, tort, strict liability, fraud, misrepresentation, or any other legal theory, related directly or indirectly to this Agreement ("Dispute") shall be resolved solely in accordance with the terms of this agreement. If a Dispute arises, the parties will endeavor to resolve the dispute through good faith negotiation within forty-five days (45) of notification of the



Dispute. If the Dispute cannot be settled through good faith negotiation, Consultant and The City of Darien will file the Dispute in the 18th Judicial Circuit Court, DuPage County, Illinois. The parties, their representatives, other participants and the arbitrator shall hold the existence, content and result of arbitration.

- 14. TRANSITION UPON TERMINATION.** Upon termination or prior to expiration of the Term or any applicable Renewal Term, the City shall begin transition efforts and Consultant shall assist with such transition. Consultant and the City shall cooperate in good faith in order to effectuate a smooth and harmonious transition from Consultant to the City, or to any other person or entity the City may designate, and to maintain during such period of transition the same quality of services otherwise afforded to the City pursuant to the terms hereof. During any transition period as described in this section, Consultant shall timely deliver to the City or provide proof of destruction of all City of Darien Confidential Information and timely provide to the City all Work Product, City data, and other data and records provided to Consultant during the performance of the Services to the City in the form reasonably requested by the City/
- 15. RELATIONSHIP OF THE PARTIES.** The Consultant shall act as an independent contractor in providing and performing the Services. Nothing in, nor done pursuant to, this Agreement shall be construed (i) to create the relationship of principal and agent, employer and employee, partners, or joint ventures between the City and Consultant; or (ii) to create any relationship between the City and any subcontractor of the Consultant.
- 16. CONFLICT OF INTEREST.** The Consultant represents and certifies that, to the best of its knowledge, (1) no elected or appointed City official, employee or agent is interested in the business of the Consultant or in this Agreement, or has personally received payment or other consideration for this Agreement; (2) as of the date of this Agreement neither the Consultant nor any person employed or associated with the Consultant has any interest that would conflict in any manner or degree with the performance of the obligations under this Agreement; and (3) neither the Consultant nor any person employed by or associated with the Consultant shall at any time during the term of this Agreement obtain or acquire any interest that would conflict in any manner or degree with the performance of the obligations under this Agreement.
- 17. NO COLLUSION.** The Consultant represents and certifies that the Consultant is not barred from contracting with a unit of state or local government as a result of (i) a delinquency in the payment of any tax administered by the Illinois Department of Revenue unless the Consultant is contesting, in accordance with the procedures established by the appropriate revenue act, its liability for the tax or the amount of the tax, as set forth in Section 11-42.1-1 et seq. of the Illinois Municipal Code, 65 ILCS 5/11-42.1-1 et seq.; or (ii) a violation of either Section 33E-3 or Section 33E-4 of Article 33E of the Criminal Code of 1961, 720 ILCS 5/33E-1 et seq. The Consultant represents that the only persons, firms, or corporations interested in this Agreement as principals are those disclosed to the City prior to the execution of this Agreement, and that this Agreement is made without collusion with any other person, firm, or corporation. If at any time it shall be found that the Consultant has, in procuring this Agreement, colluded with any other person, firm, or corporation, then the Consultant shall be liable to the City for all loss or damage that the City may suffer, and this Agreement shall, at the City's option, be null and void.
- 18. SEXUAL HARASSMENT POLICY.** The Consultant certifies that it has a written sexual harassment policy in full compliance with Section 2-105(A)(4) of the Illinois Human Rights Act, 775 ILCS 5/2-105(A)(4).
- 19. PATRIOT ACT COMPLIANCE.** The Consultant represents and warrants to the City that neither it nor any of its principals, shareholders, members, partners, or affiliates, as applicable, is a person or entity named as a Specially Designated National and Blocked Person (as defined in Presidential Executive Order 13224) and that it is not acting, directly or indirectly, for or on behalf of a Specially Designated National and Blocked Person. The Consultant further represents and warrants to the City that the Consultant and its principals, shareholders, members, partners, or affiliates, as applicable, are not, directly or indirectly, engaged in, and are not facilitating, the transactions contemplated by this Agreement on behalf of any person or entity named as a Specially Designated National and Blocked Person. The Consultant hereby agrees to defend, indemnify and hold harmless the City, its corporate authorities, and all City elected or appointed officials, officers, employees, agents, representatives, engineers, and attorneys, from and against any and all claims, damages, losses, risks, liabilities, and expenses (including reasonable attorneys' fees and costs) arising from or related to any breach of the representations and warranties in this subsection.
- 20. COMPLIANCE WITH LAWS AND GRANTS.** Consultant shall give all notices, pay all fees, and take all other action that may be necessary to ensure that the Services are provided, performed, and completed in accordance with all required governmental permits, licenses, or other approvals and authorizations that may be required in connection with providing, performing, and completing the Services, and with all applicable statutes, ordinances, rules, and regulations, including without limitation the Fair Labor Standards Act; any statutes regarding qualification to do business; any statutes prohibiting discrimination because of, or requiring affirmative action based on, race, creed, color, national origin, age, sex, or other prohibited classification, including, without limitation, the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101 et seq., and the Illinois Human Rights Act, 775 ILCS 5/1-101 et seq. Consultant shall also comply with all conditions of any federal, state, or local grant received by Owner or Consultant with respect to this Contract or the Services.

Consultant shall be solely liable for any fines or civil penalties that are imposed by any governmental or quasi-governmental agency or body that may arise, or be alleged to have arisen, out of or in connection with Consultant's, or its subcontractors', performance of, or failure to perform, the Services or any part thereof.

Every provision of law required by law to be inserted into this Contract shall be deemed to be inserted herein.

- 21. ELECTRONIC DOCUMENTS:** The parties agree that they may provide this Agreement in electronic form or may provide a reproduction of this Agreement from its electronic copy in the event of any dispute regarding the rights and obligations of the parties under this Agreement. The parties agree that any document in electronic format or any document reproduced from an electronic format shall not be denied legal effect, validity, or enforceability and shall meet any requirement to provide an original or hard copy.
- 22. INDEMNITY:** Consultant shall indemnify, defend and hold harmless The City of Darien, its advisory board, executive board, individual board members, officers, administrators, employees, agents, representatives, and volunteers from and against any and all claims, demands, causes of action, losses, liabilities, damages and penalties, including reasonable attorney's fees and court costs, to the

extent arising from any negligent act, willful misconduct, or omission of Consultant or any of its employees or subcontractors. In no event will Consultant be liable for lost profits, diminution or good will, or any other indirect, incidental, consequential, punitive or other special damages. The City of Darien shall indemnify, defend and hold harmless Consultant, its individual board members, officers, administrators, employees, agents, representatives, and volunteers from and against any and all claims, demands, causes of action, losses, liabilities, damages and penalties, including reasonable attorney's fees and court costs, to the extent arising from any negligent act, willful misconduct or omission of The City of Darien or any of its employees or subcontractors. In no event will The City of Darien be liable for lost profits, diminution or good will, or any other indirect, incidental, consequential, punitive or other special damages.

- 23. INSURANCE:** Consultant shall procure and continuously maintain through an insurance company or companies licensed to conduct business in Illinois insurance with coverage and limits as specified below, and, shall cause The City of Darien to be named as additional insureds on these policies by endorsement. All such insurers shall carry a Best Key Guide Rating of A / XV. The commercial general liability and automobile liability policies shall be endorsed to reflect that coverage is primary to and noncontributory with any other insurance available to The City of Darien. The commercial general liability policy shall by endorsement provide contractual liability coverage including the indemnity obligations provided in this agreement. Each such policy shall include by endorsement a requirement of at least 30 days written notice to The City of Darien prior to any termination, cancellation or material amendment to that policy. By specific written request, Consultant shall furnish to The City of Darien certificate(s) of insurance, policies, and endorsements reflecting the required coverages. The type and minimum limits of insurance required are as follows:

<u>Type</u>	<u>Limits</u>
Commercial General Liability	\$1,000,000 (Per Occurrence) \$2,000,000 (Aggregate)
Automobile Liability:	\$1,000,000 (combined single limit)
Workers' Compensation:	Statutory Minimum
Professional Liability: (errors and Omissions)	\$1,000,000 (Per Occurrence and Aggregate)

Consultant shall maintain professional liability insurance for one (1) year following completion of all services under this agreement.

- 24. CITY DATA.** The City has developed various types of data and information, such as digital map information through Geographic Information Systems Technology and through Auto CAD and other methods (collectively "City Data") concerning the real property located within the City. If requested to do so by the Consultant, the City agrees to supply the Consultant with a digital copy of the City Data, subject to the following conditions:

- a. **LIMITED ACCESS TO DATA.** The City Data provided by the City shall be limited to the scope of the Work that the Consultant is to provide for the City;
- b. **PURPOSE OF CITY DATA.** The Consultant shall limit its use of the City Data to its intended purpose of furtherance of the Work; and
- c. **AGREEMENT WITH RESPECT TO CITY DATA.** The Consultant does hereby acknowledge and agree that:
  - i. **Trade Secrets of the City.** The City Data constitutes proprietary materials and trade secrets of the City and, shall remain the property of the City;
  - ii. **Consent of City Required.** The Consultant will not provide or make available the City Data in any form to anyone without the prior written consent of the City Administrator;
  - iii. **Supply to City.** At the request of the City, the Consultant shall supply the City with any and all information that may have been developed by the Consultant based on the City Data;
  - iv. **No Guarantee of Accuracy.** The City makes no guarantee as to the accuracy, completeness, or suitability of the City Data in regard to the Consultant's intended use thereof; and
  - v. **Discontinuation of Use.** At such time as the Services have been completed to the satisfaction of the City, the Consultant shall cease its use of the City Data for any purpose whatsoever; and, upon request, an authorized representative of the City shall be afforded sufficient access to the Consultant's premises and data processing equipment to verify that all use of the City Data has been discontinued.

**25. FEES, PAYMENT, NET TERMS & COLLECTION**

- a. **FEES.** The fees due to Consultant for services are set forth in on the Invoice referenced in Section 1. Payment for all work performed by Consultant in connection with services hereunder shall be made by The City of Darien in accordance with the payment schedule set forth as referenced in Section 1. Consultant shall submit invoices, or other required documentation requesting payment. Except as otherwise provided, or subsequent Addendums, The City of Darien shall make payment within the agreed upon terms outlined in Section 17 NET TERMS after receipt of an invoice or other required documentation. Any dispute of invoiced charges must occur within the NET TERMS period of receipt. Invoices or other documentation identifying expenses to be reimbursed hereunder shall be accompanied by original receipts evidencing the relevant expenses.

- b. **PAYMENT.** City of Darien shall pay any invoices due pursuant to the Illinois Prompt Payment Act, 50ILCS 505/1. Payment for Services rendered are subject to the following Terms and Conditions. In an effort to streamline and simplify the accounting process, we offer the following for all Clients.
- c. **NET TERMS.** City of Darien shall pay within Net 60 – Payment 60 days after invoice date. Any Client desiring NET Terms for payment is required to complete a Business Credit Application and is subject to approval. NET Terms determination will be made based upon The City of Darien history and creditworthiness at the sole discretion of Consultant each month payment is delinquent in accordance with the Illinois Local Government Prompt Payment Act
  - i. For any new Client, Interim NET Terms will be offered provided that a valid Credit Card is placed on file pending Credit Application Approval.

Any payment which is delinquent in accordance with the provided NET Terms shall be subject to a 2% Late-Payment Penalty to be applied to the balance at the beginning of each month payment is delinquent.

- d. **COLLECTION.** Pursuant to the NET TERMS provided, payment in full is due within the NET TERM period specified. If payment is not received within thirty (30) days post NET TERM, The City of Darien’s Credit Card on file will be charged for the balance due. If the Balance Due is unable to be settled by Credit Card Authorization, The City of Darien will be notified and will have until Balance reaches sixty (60) post NET TERM due to satisfy payment, otherwise Balance shall be remitted to a Collection Agency of CONSULTANT’s choosing for settlement.

**26. Out of Scope Work:** Consultant will perform services for the City of Darien from time to time as set forth in pre-approved work deemed out of scope to this Managed Service contract. This work will be issued by the City on a project-by-project basis (the “Services”). Out of Scope work will be presented in a quote or proposal format acceptable to the City and executed by the Parties. Each Out of Scope quote or proposal will include the Services to be performed under that quote (collectively a “Project”); the time schedule for the Project, including without limitation a date for completion of the Project; and the pricing schedule for the Project. See Schedule B and C.

**27. CITY COUNCIL AUTHORITY.** Notwithstanding any provision of this Agreement, any negotiations or agreements with, or representations by the Consultant to vendors shall be subject to the approval of the City Council. The City shall not be liable to any vendor or other third party for any agreements made by the Consultant, purportedly on behalf of the City, without the knowledge and approval of the City Council.

**Records and Ownership of Documents.** All records of Consultant related to the provision of services hereunder and records produced or maintained in accordance with this agreement, are to be retained and stored in accordance the City’s records retention and disposal policies. Those records which constitute “public records” under Illinois law are to be at the City offices or accessible and opened for public inspection in accordance with applicable law and City policies. Public record requests shall be processed in accordance with City policies. Consultant agrees to allow access by the City and the public to all documents or records subject to disclosure under applicable law.

Any work product, materials, or documents produced by Consultant for the City under this agreement shall become property of the City upon delivery and shall not be made subject to any copyright unless authorized by the City. Consultant waives any right to prevent its name from being used in connection with services.

**28. GENERAL PROVISIONS.**

- a. **AMENDMENT.** No amendment or modification to this Agreement shall be effective unless and until such amendment or modification is in writing, properly approved in accordance with applicable procedures, and executed.
- b. **ASSIGNMENT.** This Agreement may not be assigned by the City or by the Consultant without the prior written consent of the other party.
- c. **BINDING EFFECT.** The terms of this Agreement shall bind and inure to the benefit of the Parties hereto and their agents, successors, and assigns.
- d. **NOTICE.** Any notice or communication required or permitted to be given under this Agreement shall be in writing and shall be delivered (i) personally, (ii) by a reputable overnight courier, (iii) by certified mail, return receipt requested, and deposited in the U.S. Mail, postage prepaid, (iv) by facsimile, or (v) by electronic internet mail (“e-mail”). Facsimile notices shall be deemed valid only to the extent that they are (a) actually received by the individual to whom addressed and (b) followed by delivery of actual notice in the manner described in either (i), (ii), or (iii) above within three business days thereafter at the appropriate address set forth below. E-mail notices shall be deemed valid and received by the addressee thereof when delivered by e-mail and (a) opened by the recipient on a business day at the address set forth below, and (b) followed by delivery of actual notice in the manner described in either (i), (ii) or (iii) above within three business days thereafter at the appropriate address set forth below. Unless otherwise expressly provided in this Agreement, notices shall be deemed received upon the earlier of (a) actual receipt; (b) one business day after deposit with an overnight courier as evidenced by a receipt of deposit; or (c) three business days following deposit in the U.S. mail, as evidenced by a return receipt. By notice complying with the requirements of this Subsection, each Party shall have the right to change the address or the addressee, or both, for all future notices and communications to such party, but no notice of a change of addressee or address shall be effective until actually received.

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

City of Darien  
1702 Plainfield Road  
Darien, Illinois 60555  
Attention: Lisa Klemm  
E-mail: lklemm@darienil.gov

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

All Information Services, Inc.  
1815 S Meyers Road, Suite 820,  
Oakbrook Terrace, IL 60181  
Attention: John Licar  
E-mail: [jlicar@aislabs.com](mailto:jlicar@aislabs.com)

- e. **THIRD PARTY BENEFICIARY.** No claim as a third party beneficiary under this Agreement by any person, firm, or corporation other than the Consultant shall be made or be valid against the City.
- f. **PROVISIONS SEVERABLE.** If any term, covenant, condition, or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions shall remain in full force and effect and shall in no way be affected, impaired or invalidated.
- g. **TIME.** Time is of the essence in the performance of this Agreement.
- h. **GOVERNING LAWS.** This Agreement shall be interpreted according to the internal laws, but not the conflict of laws rules, of the State of Illinois.
- i. **ENTIRE AGREEMENT.** This Agreement constitutes the entire agreement between the parties and supersedes any and all previous or contemporaneous oral or written agreements and negotiations between the City and the Consultant with respect to the Proposal and the Services.
- j. **WAIVER.** No waiver of any provision of this Agreement shall be deemed to or constitute a waiver of any other provision of this Agreement (whether or not similar) nor shall any such waiver be deemed to or constitute a continuing waiver unless otherwise expressly provided in this Agreement.
- k. **CONSENTS.** Unless otherwise provided in this Agreement, whenever the consent, permission, authorization, approval, acknowledgement, or similar indication of assent of any party to this Agreement, or of any duly authorized officer, employee, agent, or representative of any party to this Agreement, is required in this Agreement, the consent, permission, authorization, approval, acknowledgement, or similar indication of assent shall be in writing.
- l. **GRAMMATICAL USAGE AND CONSTRUCTION.** In construing this Agreement, pronouns include all genders and the plural includes the singular and vice versa.
- m. **HEADINGS.** The headings, titles, and captions in this Agreement have been inserted only for convenience and in no way define, limit, extend, or describe the scope or intent of this Agreement.
- n. **EXHIBITS.** Exhibits A, B, C, and D are attached hereto, and by this reference incorporated in and made a part of this Agreement. In the event of a conflict between the Exhibit and the text of this Agreement, the text of this Agreement shall control.
- o. **RIGHTS CUMULATIVE.** Unless expressly provided to the contrary in this Agreement, each and every one of the rights, remedies, and benefits provided by this Agreement shall be cumulative and shall not be exclusive of any other such rights, remedies, and benefits allowed by law.
- p. **COUNTERPART EXECUTION.** This Agreement may be executed in several counterparts, each of which, when executed, shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed, such parties acting by their representatives being thereunto duly authorized.

**ALL INFORMATION SERVICES, INC.**

**The City of Darien**

By: \_\_\_\_\_

By: \_\_\_\_\_

\_\_\_\_\_  
Print Name: John Licar

Title: IT Consultant

Date 05/01/2023

\_\_\_\_\_  
Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**AGENDA MEMO**  
**Administrative/Finance Committee**  
**May 1, 2023**

**ISSUE STATEMENT**

A motion to approve one electronics recycling event with the city's current refuse hauler, Lakeshore Recycling Systems, LLC (LRS) in an amount not to exceed \$9,800.

**BACKGROUND/HISTORY**

The City of Darien sponsored two (2) electronics recycling events for Darien residents in FYE23. These events allowed residents to place their electronics curbside for pick up by LRS. LRS waived the fees last year. The fee charged by LRS is based on the bill count. The cost per home is \$1.23. Both events were well received by the residents and were very convenient for them. Attachment A shows the results of the FYE23 E-Waste events.

The FYE24 proposed budget includes \$9,800 in Account 01-10-4325.

**STAFF/COMMITTEE RECOMMENDATION**

Staff recommends approval

**ALTERNATE CONSIDERATION**

As directed.

**DECISION MODE**

This item will be placed on the April 17, 2023, City Council Agenda for consideration.



# CITY OF DARIEN

## MONTHLY RESIDENTIAL TRACKING REPORT

### COLLECTION STATISTICS

	Apr-22	May-22	Jun-22	Jul-22	Aug-22	Sep-22	Oct-22	Nov-22	Dec-22	YTD total
Total number of homes	7565	7565	7430	7431	7408	7396	7389			
Total number of enrolled in Senior Program	1960	1969	2122	2134	2146	2173	2171			
Total number of Yard Waste containers	569	575	584	588	596	594	495			
Waste Tons	458.83	520.60	544.76	480.36	499.04	458.59	441.95			3404.13
Recycling Tons	176.08	185.62	191.80	201.21	201.11	170.78	173.26			1299.86
Organics Tons	62.40	182.33	164.34	63.07	132.95	132.75	154.10			891.94
Total Tons	697.31	888.55	900.90	744.64	833.10	762.12	769.31			5595.93
Waste cubic yards	9,176.60	10,412.00	10,895.20	9,607.20	9,980.80	9,171.80	8,839.00			68082.6
Organics Cubic yards	249.60	729.32	657.36	252.28	531.80	531.00	616.40			3567.76
E-waste Tons	NA	10.33	NA	NA	NA	14.18	NA	NA	NA	
E-waste Processing Facility	E-WORKS- ELK GROVE VILLAGE									
Recyclables & Organics Diversion % 2022	34%	41%	40%	35%	40%	40%	43%			

WASTE PROCESSING FACILITY  
 RECYCLING PROCESSING FACILITY  
 YARD WASTE PROCESSING FACILITY

HEARTLAND 6201 Canal Bank Rd, Forest View, IL 60402  
 HEARTLAND 6201 Canal Bank Rd, Forest View, IL 60402  
 HEARTLAND 6201 Canal Bank Rd, Forest View, IL 60402

**AGENDA MEMO**  
**Administrative/Finance Committee**  
**April 3, 2023**

**ISSUE STATEMENT**

A resolution approving an Employee Leasing Agreement with GovTempUSA, LLC to provide a Worksite Employee- assignment City Administrator.

**BACKGROUND/HISTORY**

On March 5, 2018, the City Council unanimously approved an Employee Leasing Agreement with GOVTEMPSUSA, LLC to provide a worksite employee to perform the duties of the City Administrator position, with me serving as the worksite employee. Mayor Marchese and I met and he would like to renew the current employee leasing agreement between GovTemps and Darien, which expires in June. I would be honored and welcome the opportunity to continue serving the City.

In summary, the agreement between the City and GovTemps provides that I continue to carry out the duties of city administrator as a GovTemp's worksite employee as I have since 2018. This agreement provides a significant cost savings to the city due to the reduction in estimated salary and the elimination of employee benefits. The annual savings to the city is approximately \$50,000 to \$70,000.

The renewal agreement with GovTemps essentially remains the same as the current agreement, with adjustments to the annual fees charged to the city. The base fee in the first year of the proposed agreement is \$184,703 plus any merit increases granted by the city to non-union employees, with the specific merit amount determined by the Mayor. The merit amount for non-union employees for FYE 24 is \$2800 plus a 1.5 percent equity merit. Annual increases/merit in subsequent contract periods will be equal to percentage pay increases and merit granted by the city to non-union employees. The agreement also provides that the City will compensate (sell back) up to 25 days of *unused leave time* at the end of each contract year, if I did not exhaust my total leave time. Therefore, the fee for the first year of the agreement could range from \$189,219 to \$208,355 depending on unused leave time. The city is not responsible for paying such benefits and health insurance, pension or other typical employee benefit costs. Current competitive pay and benefits for a full time city administrator in the immediate area is estimated at \$260,000.

**STAFF/COMMITTEE RECOMMENDATION**

Mayor Marchese recommends approval of the resolution

**ALTERNATE CONSIDERATION**

As directed.

**DECISION MODE**

This will be placed on the May 1, 2023 City Council Agenda along with the department head appointments.



## EMPLOYEE LEASING AGREEMENT

**THIS EMPLOYEE LEASING AGREEMENT** (this "Agreement") is made by and between **GOVTEMPUSA, LLC**, an Illinois limited liability company ("GovTemp"), and **CITY OF DARIEN, ILLINOIS** (the "Municipality") (GovTemp and the Municipality may be referred to herein individually as "Party" and collectively as the "Parties").

### RECITALS

The Municipality desires to lease a particular employee of GovTemp to assist the Municipality in its operations and GovTemp desires to lease that same employee to the Municipality on the terms and conditions contained herein.

### AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants and conditions set forth below, and other good and valuable considerations, the receipt and sufficiency of which are mutually acknowledged by the Parties, the Parties hereby agree as follows:

#### SECTION 1 SCOPE OF AGREEMENT

**Section 1.01. Worksite Employee.** The Municipality hereby agrees to engage the services of GovTemp to provide, and GovTemp hereby agrees to supply to the Municipality, the individual fully identified on **Exhibit A** hereto, hereinafter the "Worksite Employee." **Exhibit A** to this Agreement further identifies the employment position and/or assignment ("Assignment") the Worksite Employee shall fill at the Municipality and shall further identify the base compensation for the Worksite Employee, as of the effective date of this Agreement. **Exhibit A** may be amended from time to time by a replacement **Exhibit A** signed by both GovTemp and the Municipality. GovTemp shall have the sole authority to assign and/or remove the Worksite Employee, subject to approval by the Municipality. The Parties hereto understand and acknowledge that the Worksite Employee shall be subject to the Municipality's day-to-day supervision.

**Section 1.02. Independent Contractor.** GovTemp is and shall remain an independent contractor, and not an employee, agent, partner of, or joint venturer with, the Municipality. GovTemp shall have no authority to bind the Municipality to any commitment, contract, agreement or other obligation without the Municipality's express written consent.

#### SECTION 2 SERVICES AND OBLIGATIONS OF GOVTEMP AND MUNICIPALITY

**Section 2.01. Payment of Wages.** GovTemp shall timely pay the wages and related payroll taxes of the Worksite Employee from GovTemp's own account in accordance with federal and Illinois law and GovTemp's standard payroll practices. GovTemp shall withhold from such wages all applicable taxes and other deductions elected by the Worksite Employee. GovTemp shall timely forward all deductions to the appropriate recipient as required by law.

The Municipality hereby acknowledges that GovTemp may engage a financial entity to maintain its financing and record keeping services, which may include the payment of wages and related payroll taxes in accordance with this Section 2.01. The Municipality agrees to cooperate with any such financial entity to ensure timely payment of (i) wages and related payroll taxes pursuant to this Section 2.01, and (ii) Fees pursuant to Section 3.03.

**Section 2.02. Workers' Compensation.** To the extent required by applicable law, GovTemp shall maintain and administer workers' compensation, safety and health programs. GovTemp shall maintain in effect workers' compensation coverage covering the Worksite Employee and complete and file all required workers' compensation forms and reports.

**Section 2.03. Employee Benefits.** GovTemp shall provide to Worksite Employee those employee benefits fully identified on **Exhibit B** hereto. GovTemp may amend or terminate any of its employee benefit plans according to their terms. All employee benefits, including severance benefits for Worksite Employee will be included in Fees payable to GovTemp under Section 3.01 of this Agreement. **Exhibit B** may be amended from time to time by a replacement **Exhibit B** signed by both GovTemp and the Municipality.

**Section 2.04. Maintenance and Retention of Payroll and Benefit Records.** GovTemp shall maintain complete records of all wages and benefits paid and personnel actions taken by GovTemp in connection with any of the Worksite Employee, shall retain control of such records at such GovTemp location as shall be determined solely by GovTemp, and shall make such records available as required by applicable federal, state or local laws.

**Section 2.05. Other Obligations of GovTemp.** GovTemp shall be responsible for compliance with any federal, state and local law that may apply to its Worksite Employee(s).

**Section 2.06. Direction and Control.** The Municipality has the right of direction and control over the Worksite Employee, including matters of discipline, excluding removal or reassignment, as provided for by Section 1.01. The Worksite Employee shall be supervised, directly and indirectly, and exclusively by the Mayor and the City Council.

**Section 2.07. Obligations of the Municipality.** As part of the employee leasing relationship, the Municipality hereby covenants, agrees and acknowledges:

- (a) With respect to the Worksite Employees, the Municipality shall comply with all applicable workplace and employment-related laws and regulations, including and, without limitation, OSHA, Title VII of the Civil Rights Act of 1964, as amended, (Title VII), the Americans With Disabilities Act of 1990 (ADA), the Age Discrimination in Employment Act (ADEA), the Equal Pay Act of 1963, the Civil Rights Acts of 1866 and 1871 (42 U.S.C. § 1981), the Family and Medical Leave Act of 1993, the Fair Labor Standards Act of 1938, the National Labor Relations Act, the Employee Retirement Income Security Act of 1974, the Illinois State Constitution, the Illinois Human Rights Act, and any other federal, state or local law, statute, ordinance, order, regulation, policy or decision regulating wages and the payment of wages, prohibiting employment discrimination or otherwise establishing or relating to rights of employees;

(b) The Municipality shall retain the right to exert sufficient direction and control over the Worksite Employee as is necessary to conduct the Municipality's business and operations, without which, the Municipality would be unable to conduct its business, operation or comply with any applicable licensure, regulatory or statutory requirements;

(c) The Municipality agrees that the Municipality shall pay no wages, salaries or other forms of direct or indirect compensation, including employee benefits, to Worksite Employee;

(d) The Municipality shall report to GovTemp any injury to any Worksite Employee of which it has knowledge within twenty-four (24) hours of acquiring such knowledge. If a Worksite Employee is injured in the course of performing services for the Municipality, the Municipality and GovTemp shall follow the procedures and practices regarding injury claims and reporting, as determined by GovTemp. Upon receipt of notification from GovTemp or its insurance carrier that an injured Worksite Employee is able to return to work and perform "light duty," the Municipality shall immediately make available an appropriate light duty work assignment for such Worksite Employee to the extent required or permitted by any applicable law; and

(e) The Municipality shall report all on-the-job illnesses, accidents and injuries of the Worksite Employee to GovTemp within twenty-four (24) hours following notification of said injury by employee or employee's representative.

### **SECTION 3 FEES PAYABLE TO GOVTEMP**

**Section 3.01. Fees.** The Municipality hereby agrees to pay GovTemp fees for the services provided under this Agreement as follows:

(a) The base compensation as fully identified on **Exhibit A**, as amended; plus

(b) Any employee benefits GovTemp paid to the Worksite Employee as identified on **Exhibit B** hereto, including, but not limited to, salary; wages; commissions; bonuses; sick pay; workers' compensation, payroll, unemployment, FICA and other taxes; vacation pay; overtime pay; severance pay; monthly automobile allowances, and any other compensation or benefits payable under any applicable GovTemp pension and welfare benefit plan or federal, state or local laws covering the Worksite Employee.

**Section 3.02. Increase in Fees.** GovTemp may increase fees to the extent and equal to any mandated tax increases, e.g. FICA, FUTA, State Unemployment taxes when they become effective.

**Section 3.03. Payment Method.** GovTemp shall provide the Municipality a written invoice for the fees owed by the Municipality pursuant to Exhibit A. Within thirty (30) days following receipt of such invoice, the Municipality shall pay all invoiced amounts by check, wire transfer or electronic funds transfer to GovTemp to an account or lockbox as designated on the invoice.

## **SECTION 4 INSURANCE**

**Section 4.01. General and Professional Liability Insurance.** The Municipality shall maintain in full force and effect at all times during the term of this Agreement a Comprehensive (or Commercial) General Liability and Professional Liability (if applicable) insurance policy or policies (the "Policies"), with minimum coverage in the amount of \$1,000,000 per occurrence, \$3,000,000 aggregate. At a minimum, the Policies shall insure against bodily injury and property damage liability caused by on-premises business operations, completed operations and/or products or professional service and non-owned automobile coverage. The Municipality is a member of the Intergovernmental Risk Management Agency (IRMA). GovTemp agrees that such membership satisfies the requirements of this Section.

**Section 4.02. Certificate of Insurance.** Upon request, the Municipality shall provide GovTemp with one or more Certificates of Insurance, verifying the Municipality's compliance with the provisions of Section 4.01.

**Section 4.03. Automobile Liability Insurance.** If the Worksite Employee drives a Municipal or personal vehicle for any reason in connection with his or her Assignment, the Municipality shall maintain in effect automobile liability insurance which shall insure the Worksite Employee, GovTemp and the Municipality against liability for bodily injury, death and property damage.

## **SECTION 5 DURATION AND TERMINATION OF AGREEMENT**

**Section 5.01. Effective and Termination Date.** This Agreement is the date that this Agreement is last signed by GovTemps on the signature page (the "Effective Date"). The period during which the Assigned Employee works at the Municipality is defined as the ("Term"). The Term commences on the Effective Date and will continue for the period identified on the attached Exhibit A, or until it is terminated in accordance with the remaining provisions of this Section 5. For the purposes of this Agreement, the date on which this Agreement expires and/or is terminated is the ("Termination Date").

**Section 5.02. Termination of Agreement for Failure to Pay Fees.** If the Municipality fails to timely pay the fees required under this Agreement, GovTemp may give the Municipality notice of its intent to terminate this Agreement for such failure and if such failure is remedied within ten (10) days, the notice shall be of no further effect. If such failure is not remedied within the ten (10) day period, GovTemp shall have the right to terminate the Agreement upon expiration of such remedy period.

**Section 5.03. Termination of Agreement for Material Breach.** If either Party materially breaches this Agreement, the non-breaching Party shall give the breaching Party notice of its intent to terminate this Agreement for such breach and if such breach is remedied within ten (10) days, the notice shall be of no further effect. If such breach is not remedied within the ten (10) day period, the non-breaching Party shall have the right to immediately terminate the Agreement upon expiration of such remedy period.

**Section 5.06. Termination without Cause.** Either party may terminate this Agreement by providing ninety (90) days written notice.

## **SECTION 6 NON-SOLICITATION**

**Section 6.01. Non-Solicitation.** The Municipality acknowledges GovTemp's legitimate interest in protecting its business for a reasonable time following the termination of this Agreement. Accordingly, the Municipality agrees that during the term of this Agreement and for a period of two (2) years thereafter, the Municipality shall not solicit, request, entice or induce Worksite Employee to terminate his or her employment with the GovTemp, nor shall the Municipality hire Worksite Employee as an employee.

**Section 6.02. Injunctive Relief.** The Municipality recognizes that the rights and privileges granted by this Agreement are of a special, unique, and extraordinary character, the loss of which cannot reasonably or adequately be compensated for in damages in any action at law. Accordingly, the Municipality understands and agrees that GovTemp shall be entitled to equitable relief, including a temporary restraining order and preliminary and permanent injunctive relief, to prevent or enjoin a breach of Section 6.01 this Agreement. The Municipality also understands and agrees that any such equitable relief shall be in addition to, and not in substitution for, any other relief to which the GovTemp may be entitled.

**Section 6.03. Survival.** The provision of this Section 6 shall survive any termination of this Agreement.

## **SECTION 7 DISCLOSURE AND INDEMNIFICATION PROVISIONS**

**Section 7.01. Indemnification by GovTemp.** GovTemp agrees to indemnify, defend and hold the Municipality and its related entities or their agents, representatives or employees (the "Municipality Parties") harmless from and against all claims, liabilities, damages, attorney's fees, costs and expenses ("Losses") (a) arising out of GovTemp's breach of its obligations under this Agreement, (b) related to the actions or conduct of GovTemp and its related business entities, their agents, representatives, and employees (the "GovTemp Parties"), taken or not taken with respect to the Worksite Employees that relate to events or incidents occurring prior or subsequent to the term of this Agreement, and (c) arising from any act or omission on the part of GovTemp or any of the GovTemp Parties.

**Section 7.02. Indemnification by the Municipality.** The Municipality agrees to indemnify, defend and hold the GovTemp Parties harmless from and against all Losses (a) arising out of the Municipality's breach of its obligations under this Agreement, (b) relating to any activities or conditions associated with the Assignment, including without limitation, the Worksite Employee workers' compensation claims, and (c) arising from any act or omission on the part of the Municipality or any of the Municipality Parties. Notwithstanding the foregoing, the Municipality shall have no obligations to the GovTemp Parties under this Section with

respect to Losses arising out of events or incidents occurring before or after the term of this Agreement.

**Section 7.03. Indemnification Procedures.** The Party that is seeking indemnity (the "Indemnified Party") from the other Party (the "Indemnifying Party") pursuant to this Section 7, shall give the Indemnifying Party prompt notice of any such claim, allow the Indemnifying Party to control the defense or settlement of such claim and cooperate with the Indemnifying Party in all matters related thereto; provided however that, prior to the Indemnifying Party assuming such defense and upon the request of the Indemnified Party, the Indemnifying Party shall demonstrate to the reasonable satisfaction of the Indemnified Party that the Indemnifying Party (a) is able to fully pay the reasonably anticipated indemnity amounts under this Section 7 and (b) takes steps satisfactory to the Indemnified Party to ensure its continued ability to pay such amounts. In the event the Indemnifying Party does not control the defense, the Indemnified Party may defend against any such claim at the Indemnifying Party's cost and expense, and the Indemnifying Party shall fully cooperate with the Indemnified Party, at no charge to the Indemnified Party, in defending such potential Loss, including, without limitation, using reasonable commercial efforts to keep the relevant Worksite Employee available. In the event the Indemnifying Party controls the defense, the Indemnified Party shall be entitled, at its own expense, to participate in, but not control, such defense. The failure to promptly notify the Indemnifying Party of any claim pursuant to this Section shall not relieve such Indemnifying Party of any indemnification obligation that it may have to the Indemnified Party, except to the extent that the Indemnifying Party demonstrates that the defense of such action has been materially prejudiced by the Indemnified Party's failure to timely give such notice.

**Section 7.04. Survival of Indemnification Provisions.** The provisions of this Section 7 shall survive the expiration or other termination of this Agreement.

## **SECTION 8 ADDITIONAL PROVISIONS**

**Section 8.01. Amendments.** This Agreement may be amended at any time and from time to time, but any amendment must be in writing and signed by all of the Parties to this Agreement, except for changes to the fees as set forth in Section 3.

**Section 8.02. Binding Effect.** This Agreement shall inure to the benefit of and be binding upon the Parties and their respective heirs, successors, representatives and assign. Neither Party may assign its rights or delegate its duties hereunder without the express written consent of the other Party, which consent shall not be unreasonably withheld.

**Section 8.03. Counterpart Execution.** This Agreement may be executed and delivered in any number of counterparts, each of which shall be an original, but all of which together shall constitute one and the same instrument. This Agreement may be executed and delivered via facsimile.

**Section 8.04. Definitions.** Terms and phrases defined in any part of this Agreement shall have the defined meanings wherever used throughout the Agreement. The terms

"hereunder" and "herein" and similar terms used in this Agreement shall refer to this Agreement in its entirety and not merely to the section, subsection or paragraph in which the term is used.

**Section 8.05. Entire Agreement.** This Agreement constitutes the entire agreement between the Parties regarding GovTemp's provision of Worksite Employee to the Municipality, and contains all of the terms, conditions, covenants, stipulations, understandings and provisions agreed upon by the Parties. This Agreement supersedes and takes precedence over all proposals, memorandum agreements, tentative agreements, and oral agreements between the Parties, made prior to and including the date hereof, and not specifically identified and incorporated in writing into this Agreement. No agent or representative of either Party hereto has authority to make, and the Parties shall not be bound by or liable for, any statement, representation, promise, or agreement not specifically set forth in this Agreement.

**Section 8.06. Further Assurances.** Each of the Parties shall execute and deliver any and all additional papers, documents, and other assurances and shall do any and all acts and things reasonably necessary in connection with the performances of their obligations hereunder and to carry out the intent of the parties hereto.

**Section 8.07. Gender.** Whenever the context herein so requires, the masculine, feminine or neuter gender and the singular and plural number shall each be deemed to include the other.

**Section 8.08. Notices.** Notices given under this Agreement shall be in writing and shall either be served personally or delivered by certified first class U.S. Mail, postage prepaid and return receipt requested or by overnight delivery service. Notices also may effectively be given by transmittal over electronic transmitting devices such as Telex or facsimile machine if the Party to whom the notice is being sent has such a device in its office, provided that a complete copy of any notice shall be mailed in the same manner as required for a mailed notice.

Notices shall be deemed received at the earlier of actual receipt or three days from mailing date. Notices shall be directed to the Parties at their respective addresses shown below. A Party may change its address for notice by giving written notice to the other Party in accordance with this Section:

If to GovTemp:

GOVTEMPSUSA, LLC  
630 Dundee Road, Suite 225  
Northbrook, IL 60062  
Attention: Michael J. Earl  
Telephone: 224-261-8366  
Email: mearl@govhrusa.com

If to the Municipality:

City of Darien  
1702 Plainfield Road  
Darien, IL 60561  
Attention: Mayor Joseph Marchese  
Telephone: 630-254-2421  
Email: jmarchese@darienil.gov

**Section 8.09. Section Headings.** Section and other headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

**Section 8.10. Severability.** If any part or condition of this Agreement is held to be void, invalid or inoperative, such shall not affect any other provision hereof, which shall continue to be effective as though such void, invalid or inoperative part, clause or condition had not been made.

**Section 8.11. Waiver of Provisions.** The failure by one Party to require performance by the other Party shall not be deemed to be a waiver of any such breach, nor of any subsequent breach by the other Party of any provision of this Agreement. Such waiver shall not affect the validity of this Agreement, nor prejudice either Party's rights in connection with any subsequent action. Any provision of this Agreement may be waived if, but only if, such waiver is in writing signed by the Party against whom the waiver is to be effective.

**Section 8.12. Confidentiality.** Each Party shall protect the confidentiality of the other's records and information and shall not disclose confidential information without the prior written consent of the other Party. Each Party shall reasonably cooperate with the other Party regarding any Freedom of Information Act (FOIA) request calling for production of documents related to this Agreement.

**Section 8.13. Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Illinois applicable to contracts made and to be performed entirely within such state, except the law of conflicts.

*[Signatures on following page]*



IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be duly executed as of the day and year first above written.

**GOVTEMPUSA, LLC,  
an Illinois limited liability company**

By \_\_\_\_\_

Name: Joellen Cademartori

Title: President/Co-owner

**EFFECTIVE DATE:** April 1, 2023

**MUNICIPALITY**

By \_\_\_\_\_

Name: Joseph Marchese

Title: Mayor



**EXHIBIT B**  
**Summary of Benefits**

**LEAVE TIME:** The Municipality will provide ten (10) holiday leave days to Worksite Employee on the same schedule provided to City Hall employees. Additionally, the Municipality will provide leave time at the rate of 50 days/year (contract period 5 is prorated to 3 months) to the Worksite Employee in a *Time Bank* for use in the contract period. At the end of each contract period, or upon termination of the contract, if any leave time is remaining the Municipality will provide payment of up to 25 days of unused leave at the employee's annual hourly rate.

**OTHER BENEFITS:** The Municipality will provide and maintain the Worksite Employee with a computer, cellular phone, and a Municipal vehicle for worksite employee's official professional use, and incidental and de minimis personal use.

**GOVTEMPUSA, INC.:**

**MUNICIPALITY:**

By: \_\_\_\_\_

By: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

This Exhibit B fully replaces all Exhibits B dated prior to the date of the signatures above.

**City of Darien**  
**Minutes of the Administrative/Finance Committee**  
**February 6, 2023**

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Chairwoman/Alderswoman Sullivan called the Meeting to order at 6:30 pm. Committee members Aldermen Vaughan and Schauer were present. City Administrator Vana, and Treasurer Coren were also present.

**Clarke Mosquito**

Staff advised Clarke Mosquito has been the contractor to control mosquito populations for the City of Darien for many years. There currently are no other alternatives for mosquito abatement and Clarke has prepared a three year proposal. The three year proposal is a minimal increase of less than 2% from the previous three year contract. This proposal is part of their EarthRight Program, a more environmentally friendly operation that reduces the City’s carbon footprint as well as utilizes an EPA recognized larvicide called Natular. The committee unanimously recommended entering into a three year contract with Clarke Mosquito under the EarthRight Environmental Mosquito Management Program at \$42,500 per year.

**Minutes – October 3, 2022** – The committee unanimously approved the minutes.

**Adjournment** - The meeting adjourned at 6:45 p.m.

Approved:

Mary Sullivan, Chairwoman \_\_\_\_\_

Ted Schauer, Member \_\_\_\_\_

Lester Vaughan, Member \_\_\_\_\_