



**AGREEMENT FOR INFORMATION TECHNOLOGY SERVICES**

**BETWEEN THE VILLAGE OF BUFFALO GROVE AND**

**InterDev, LLC**

THIS AGREEMENT, dated January 2, 2014, is entered into by and between the Village of Buffalo Grove (the Village), an Illinois home rule municipality, and InterDev, LLC of Alpharetta, GA (the "Consultant").

**RECITALS**

WHEREAS, the Village seeks a consultant to perform in part or in whole converged information technology services,; and

WHEREAS, the Village as a member of the North Shore IT Consortium joined in the release of a formal request for proposal ("RFP") for the provision of the Services (RFP#213037); and

WHEREAS, the Consultant submitted an acceptable proposal to the Village to provide the services as herein defined; and

NOW THEREFORE, for good and valuable consideration, the sufficiency of which is hereby acknowledged, the Village and Consultant agree as follows:



**SECTION 1. AGREEMENT DOCUMENTS**

The Agreement Documents, which constitute the entire agreement between the Village and the Consultant, are:

- A. Exhibit A – Scope of Works/Goals and Expectations
- B. Exhibit B - RFP #213037
- C. Exhibit C - RFP #213037 Response from InterDev dated November 13, 2013
- D. Exhibit D – Updated Staffing Plan for Shared Information Technology Services dated December 9, 2013 from InterDev. On RFP #213037
- E. This Agreement and all exhibits thereto.

These documents are collectively referred to herein as the “Agreement Documents”. In the event of a conflict between this Agreement and the RFP, the provisions of this Agreement shall control.

**SECTION 2. SCOPE OF WORK (SOW)**

The Consultant agrees to provide the services in accordance with the Agreement Documents, and as reasonably required in accordance with management at the time when, and at the place where, the services are performed (the “Services”).

**SECTION 3. TERM; TERMINATION**

The initial term of this Agreement shall commence on May 31, 2014 and remain in effect for three (3) years (the “Initial Term”). The Village reserves the right to renew the Agreement for two (2) additional one (1) year periods, subject to acceptable performance by the Consultant, as determined by the Village in its sole discretion (the “Renewal Term(s)”). At the end of the Initial Term or any Renewal Term, the Village reserves the right to extend this Agreement for a period of up to ninety (90) days for the purpose of negotiating a new agreement with the Consultant, transitioning service to an alternate provider, or re-establishing in-house services. For any term beyond the Initial Term, this Agreement is contingent on the appropriation of sufficient funds; no charges shall be assessed for failure of the Village to appropriate funds in future contract years.

The Village reserves the right to terminate this Agreement, or any part hereof upon thirty (30) days written notice, with or without cause. In case of such termination, Consultant shall be entitled to receive payment from the Village for work completed up to and including the date of termination in accordance with the terms and conditions of the Agreement Documents.



For the Renewal Term terms, requests for increases shall be limited to three percent **(3%)** per annum, or such lesser amount as may be agreed to by the Parties upon evaluation of the Financial Review in Section 4 of this Agreement and the establishment of a mutually acceptable profit to be earned by the Consultant.

In the event the Village elects to exercise its option for the Renewal Term, it shall provide written notice to the Consultant no less than one hundred eighty (180) days before the expiration of the Initial Term.

**SECTION 4. FINANCIAL REVIEW**

Upon written request of the Village, but not more than twice a year, Consultant shall provide the Village with access to all of Consultant's financial information, including but not limited to, balance sheets, income statements, salary information, profit margin, etc. The information provided to the Village by the Consultant is made under a claim by Consultant that such information are trade secrets or commercial or financial information and that they are proprietary, privileged or confidential and disclosure of such information would cause competitive harm to the Consultant. The Village agrees to keep confidential any and all such information to which it is provided access.

**SECTION 5. INDEMNIFICATION**

The Consultant agrees to indemnify, save harmless and defend the Village and its elected and appointed officials, employees, agents, consultants, attorneys and representatives and each of them against, and hold it and them harmless from, any and all lawsuits, claims, injuries, demands, liabilities, losses, and expenses; including court costs and reasonable attorney's fees for or on account of any injury to any person, or any death at any time resulting from such injury, or any damage to property, which may arise or which may be alleged to have arisen out of, or in connection with the work covered by this project to the extent caused by actions of the consultant. The obligations of the Consultant under this provision shall not be limited by the limits of any applicable insurance required of the Consultant.

Kotecki Waiver. In addition to the requirements set forth above, the Consultant (and any subcontractor into whose subcontract this clause is incorporated) agrees to assume the entire liability for all personal injury claims suffered by its own employees and waives any limitation of liability defense based upon the Worker's Compensation Act and cases decided there under. Consultant agrees to indemnify and defend the Village from and against all such loss, expense, damage or injury, including reasonable attorneys' fees, which the Village may sustain as a result of personal injury claims by Consultant employees, except to the extent those claims arise as a result of the Village's own negligence.



**SECTION 6. INSURANCE AND PERFORMANCE BOND**

The Consultant shall maintain for the duration of this Agreement, including warranty period, insurance purchased from a company or companies lawfully authorized to do business in the state of Illinois and having a rating of at least A-minus and a class size of at least X as rated by A.M. Best Ratings and a performance bond. Such insurance will protect the Consultant from claims set forth below which may arise out of or result from the Consultant’s operations under the contract and for which the Consultant may be legally liable, whether such operations be by the Consultant or by a Subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable:

6.1 **Workers’ Compensation Insurance** covering all liability of the Consultant arising under the Workers’ Compensation Act and Occupational Diseases Act; limits of liability not less than statutory requirements.

6.2 **Employers Liability** covering all liability of consultant as employer, with limits not less than: \$1,000,000 per injury – per occurrence; \$500,000 per disease – per employee; and \$1,000,000 per disease – policy limit.

6.3 **Comprehensive General Liability** in a broad form on an occurrence basis, to include but not be limited to, coverage for the following where exposure exists; Premises/Operations, Contractual Liability, Products/Completed Operations for 2 years following final payment, Independent Contractor’s coverage to respond to claims for damages because of bodily injury, sickness or disease, or death of any person other than the Consultant’s employees as well as claims for damages insured by usual personal injury liability coverage which are sustained (1) by a person as a result of an offense directly or indirectly related to employment of such person by the Consultant, or (2) by another person and claims for damages, other than to the Work itself, because of injury to or destruction of tangible property, including loss of use there from; Broad Form Property Damage Endorsement;

General Aggregate Limit	\$ 2,000,000
Each Occurrence Limit	\$ 1,000,000

6.4 **Automobile Liability Insurance** shall be maintained to respond to claims for damages because of bodily injury, death of a person or property damage arising out of ownership, maintenance or use of a motor vehicle. This policy shall be written to cover any auto whether owned, leased, hired, or borrowed.

6.5 **Professional Liability Insurance** shall be maintained to respond to claims for damages due to the Consultant’s errors and omissions.

Errors and Omissions:	\$1,000,000
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6.6 Consultant agrees that with respect to the above required insurance:

6.6.1 The CGL policy shall be endorsed for the general aggregate to apply on a “per Project” basis;

6.6.2 To provide separate endorsements: to name the Village of Buffalo Grove as additional insured as their interest may appear, and; to provide thirty (30) days notice, in writing, of cancellation or material change.



6.6.3 The Consultant’s insurance shall be primary in the event of a claim.

6.6.4 The Village shall be provided with Certificates of Insurance and endorsements evidencing the above required insurance, prior to commencement of this Agreement and thereafter with certificates evidencing renewals or replacements of said policies of insurance at least thirty (30) days prior to the expiration or cancellation of any such policies. Said Notices and Certificates of Insurance shall be provided to: Village of Buffalo Grove Purchasing Department, 50 Raupp Boulevard, Buffalo Grove, IL 60089.

6.6.5 A **Certificate of Insurance** that states the Village of Buffalo Grove has been endorsed as an “additional insured” on a non-contributory basis by the Consultant’s insurance carrier. **Specifically, this Certificate must include the following language: “The Village of Buffalo Grove, and their respective elected and appointed officials, employees, agents, consultants, attorneys and representatives, are, and have been endorsed, as an additional insured under the above reference policy number \_\_\_\_\_ on a primary and non-contributory basis for general liability and automobile liability coverage for the duration of the contract term.”**

6.7 **Failure to Comply:** In the event the Consultant fails to obtain or maintain any insurance coverages required under this Agreement, the Village may purchase such insurance coverages and charge the expense thereof to the Consultant.

6.8 **Performance Bond. Consultant shall provide to the Village a performance bond in the amount of the base contract cost plus the PSA licensing as identified in Section 8 of this Agreement.**

## **SECTION 7. INVOICES AND PAYMENTS**

The Consultant shall submit detailed invoices for services, including labor rate per consultant, and the number of hours worked per week. No allowances shall be made for expenses other than those identified herein without prior approval. Payment shall be made in accordance with the Illinois Local Government Prompt Payment Act, 50 ILCS 505/1, *et seq.*



**SECTION 8. AGREEMENT PRICE**

The Village agrees to pay the Consultant in accordance with the Agreement Documents in an annual not to exceed the amount as defined in the table below, without written approval, inclusive of all services and reimbursable expenses as identified herein.

	<b>Year 1</b>	<b>Year 2</b>	<b>Year 3</b>	<b>Year 4<sup>1</sup></b>	<b>Year 5</b>
Base Contract Cost	<b>\$374,536</b>	<b>\$374,536</b>	<b>\$374,536</b>	<b>\$385,772</b>	<b>\$397,345</b>
Annual PSA Licensing	\$6,708	\$6,708	\$6,708	\$6,909	\$7,116
Performance Bond	\$3,667	\$3,667	\$3,667	\$3,777	\$3,890
<b>Total</b>	<b>\$384,911</b>	<b>\$384,911</b>	<b>\$384,911</b>	<b>\$396,458</b>	<b>\$408,351</b>

The Village agrees to pay the Consultant the sums as indicated below for additional services upon written direction of the Village:

1. Annual PSA licensing costs for Buffalo Grove (5 tech seats, 309 devices)\* \$ 6,708.00  
 PSA (Professional Services Automation) consists of LabTech and ConnectWise, the primary software tools used for server and workstation monitoring, patch management, remote control, inventory, asset management, service desk ticketing, and CRM. Cost is based on \$50/technician and \$1/device per month.
2. Hourly rate for unplanned work not associated with the Scope of Work: \$ 175.00
3. Planned work, projects that InterDev has been provided 4 weeks notice prior to start date and are not in the SOW, shall be billed at mutual acceptable rates. Subcontracted work shall be charged in accordance with the terms contained in Exhibit A to this Agreement.

\*AntiVirus is optional and licensed separately. InterDev will utilize the Village’s existing license.

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<sup>1</sup> Upon extension by the Village, Year 4 and Year 5 of the Agreement include a three (3) percent per annum increase, as enumerated in Section 3, Term, and as may be mutually agreed by the parties.



**SECTION 9. JURISDICTION, VENUE, CHOICE OF LAW**

This Agreement shall be construed under and governed by the laws of the State of Illinois, and the exclusive jurisdiction and venue for all claims and controversies arising hereunder shall be the Circuit Court of Cook County, Illinois.

**SECTION 10. INDEPENDENT CONTRACTOR**

The Consultant is an independent contractor, and neither the Consultant, nor any employee or agent thereof, shall be deemed for any reason to be an employee or agent of the Village.

**SECTION 11. CONSULTANT REPRESENTATIONS**

Consultant hereby represents and warrants as follows:

- A. It is a company which is validly existing and duly authorized to do business under the laws of the State of Illinois, with power and authority to conduct its business as currently conducted and as contemplated by this Agreement
- B. All necessary corporate, regulatory, or other similar action has been taken to authorize and empower Consultant to execute, deliver and perform this Agreement. The person(s) executing this Agreement on behalf of Consultant is duly authorized to do so and this Agreement is a legal, valid and binding obligation of each and all of the owners, shareholders, officers, managers, partners or members of Consultant, enforceable against them in accordance with its terms, subject to bankruptcy, equitable principles and laws affecting creditor's rights generally.
- C. Except only for those representations, statements or promises expressly contained in the Agreement Documents, no representation, statement or promise, oral or in writing, of any kind whatsoever by the Village, its officials, agents, or employees has induced Consultant to enter into this Agreement or has been relied upon by Consultant.
- D. No proceeding of any kind, including, but not limited to, litigation, arbitration, judicial or administrative, is pending or threatened against or contemplated by Consultant which would under any circumstance have any material adverse effect on the execution, delivery, performance or enforceability of this Agreement. As of the date of execution of this Agreement, Consultant has not received notice, or has a reasonable basis for believing that Consultant or any of its members, shareholders, partners, associates, officers, managers or employees are the subject of any criminal action, complaint or investigation pertaining to any felony charge, or any civil action or claim predicated on alleged acts of antitrust violations; business fraud; discrimination due to race, creed, color, disability, gender, marital status, age, national origin, or religious affiliation.



E. This Agreement constitutes a valid, legal and binding obligation of Consultant, and to the extent permissible by law, is enforceable against it in bankruptcy, insolvency, reorganization, moratorium and other laws affecting the enforcement of creditors' rights generally and to general principles of equity, regardless of whether such enforcement is considered in a proceeding in equity or at law.

F. Consultant shall provide prompt notice to the Village whenever any of the representations or warranties contained herein ceases to be true or correct.

**SECTION 12. ASSIGNMENT**

The Consultant shall not assign any duties or performance under this Agreement without the express written consent of the Village.

**SECTION 13. MODIFICATION**

This Agreement may be amended or supplemented only by an instrument in writing executed by both of the parties hereto.

**SECTION 14. NO IMPLIED WAIVERS**

The failure of either party at any time to require performance by the other party of any provision of this Agreement shall not affect in any way the full right to require such performance at any time thereafter. Nor shall the waiver of either party of a breach of any provision of this Agreement be taken or held to be a waiver of the provision itself.

**SECTION 15. OWNERSHIP OF DOCUMENTS**

The Village shall retain ownership of all work product and deliverables created by Consultant pursuant to this Agreement.

**SECTION 16. RECORDS AND INFORMATION**

Consultant understands that it may receive or gain access to information that is confidential or highly sensitive in nature and acknowledges that such information will be used only for the purpose of fulfilling its obligations under this Agreement. Further, any output from this Agreement is to be kept confidential and is for the sole use of the Village. Consultant shall not reveal such information and/or output to other parties without the express written permission of the Village. All records and documents received by Consultant from the Village shall remain the sole property of the Village and all such records, or exact copies thereof, shall be turned over intact to the Village within ten (10) days of the Village's request.





**SECTION 17. CONFIDENTIALITY**

Confidential information shall include, without limitation:

- A. All information that concerns the business affairs of the Village including, without limitation, financial information, and all other data, records, and proprietary information involving the Village's business operations;
- B. Any information developed or created by Consultant in connection with the services being rendered under this Agreement by Consultant; and
- C. Any other information reasonably identified by the Village as confidential; provided however that confidential information shall not include the following:
  - i. Information known by, or generally available to the public at large through no breach by Consultant of this Agreement;
  - ii. Any information given to Consultant by a third party without continuing restrictions on its use;
  - iii. Information disclosed by Consultant with the Village's written approval; and
  - iv. Information required to be disclosed by law.

**SECTION 18. FREEDOM OF INFORMATION ACT**

Consultant agrees to furnish all documentation related to this Agreement and any documentation related to the Village required under an Illinois Freedom of Information Act (ILCS 140/1 et. seq.) ("FOIA") request within five (5) days after Village issues notice of such request to Consultant. Consultant agrees to defend, indemnify and hold harmless the Village, and agrees to pay all reasonable costs connected therewith (including, but not limited to reasonable attorney's and witness fees, filing fees and any other expenses) for the Village to defend any and all causes, actions, causes of action, disputes, prosecutions, or conflicts arising from Consultant's, actual or alleged violation of the FOIA or Consultant's failure to furnish all documentation related to a request within five (5) days after Village issues notice of a request.



**SECTION 19. MISCELLANEOUS PROVISIONS**

Contractor shall comply with all applicable laws, regulations and rules promulgated by any federal, state, local, or other governmental authority or regulatory body pertaining to all aspects of the Work, now in effect, or which may become in effect during the performance of the Work. The scope of the laws, regulations, and rules referred to in this paragraph includes, but is in no way limited to, the Illinois Human Rights Act, Illinois Equal Pay Act of 2003, Occupational Safety & Health Act along with the standards and regulations promulgated pursuant thereto (including but not limited to those safety requirements involving work on elevated platforms), all forms of traffic regulations, public utility, Interstate and Intrastate Commerce Commission regulations, Workers' Compensation Laws, Public Construction Bond Act, Prevailing Wage Laws, Public Works Preference Act, Employment of Illinois Workers on Public Works Act, USA Security Act, federal Social Security Act (and any of its titles), and any other law, rule or regulation of the Illinois Department of Labor, Department of Transportation, Illinois Environmental Protection Act, Illinois Department of Natural Resources, Illinois Department of Human Rights, Human Rights Commission, EEOC, and the Village of Buffalo Grove.

**SECTION 20. NON-EXCLUSIVITY**

This Agreement, in whole or in part, shall not be construed to limit the Village to the exclusive use of the Consultant to provide the services enumerated within the Scope of Work. Village reserves the right to employ the services of other consultants or contractors to complete the Scope of Work, assess the Consultant's work product and/or meet the legitimate business needs of the Village.

**SECTION 21. SEVERABILITY**

If any part of this Agreement shall be held to be invalid for any reason, the remainder of this Agreement shall be valid to the fullest extent permitted by law.



**SECTION 22. NOTICES**

Any notices or demands, which may be or are required, to be given by either party to the other under this Agreement shall be in writing, and all notices, demands and payments required to be given or made hereunder shall be given or made either: (a) by hand delivery; or (b) by United States certified mail, postage prepaid addressed to the Village or Consultant, respectively, at the following addresses, or at such other place as the Village or Consultant may from time to time designate in writing:

If to the Village:

Village of Buffalo Grove  
50 Raupp Blvd  
Buffalo Grove, IL 60089  
Attn: Purchasing Manager

With a copy to:

William Raysa  
Tressler LLP  
22 S. Washington Avenue  
Park Ridge, IL 60068

If to the Consultant:

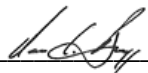
InterDev, LLC  
2650 Holcomb Bridge Road, Suite 310  
Alpharetta, GA 30022  
Attn: Gary Nichols, CEO

With a copy to:

None

IN WITNESS HEREOF, the undersigned have caused this Agreement to be executed in their respective names on the dates hereinafter enumerated.

THE VILLAGE OF BUFFALO GROVE

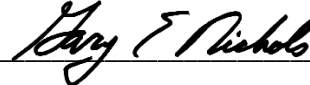
  
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Dane C. Bragg  
Village Manager

January 2, 2014

Date

InterDev, LLC

  
\_\_\_\_\_

Gary E. Nichols  
CEO

12/30/2013

Date



**EXHIBIT A**

**SCOPE OF WORK/GOALS AND EXPECTATIONS**

The Services included within the Scope of Work set forth in the RFP (Exhibit B), the Response (Exhibit C), and the Updated Staffing Plan (Exhibit D) are amended to include the work as described in this Exhibit A.

**Buffalo Grove Staffing Plan**

<b>Position</b>	<b>Full Time Equivalent (FTE)</b>
Application Developer	0
Systems Engineer III	0
Systems Engineer II	1
System Engineer I	1
Help Desk Support Technician	1

Years 1-3: 3.0 FTE

Application development, specialized Lotus Notes support, and ERP conversion may require additional resources at additional expense. No such expense will be incurred without prior notice and approval by the Village.

If as a function of providing services to the Village, providing unplanned work, or planned work, InterDev requires the services of a third party I.T. consultant, InterDev shall bill the Village no more than the cost InterDev paid for the services of such a consultant.

In addition, the Village of Buffalo Grove reserves the right to remove and approve InterDev hires and the option to engage the services of third party I.T. contractors for the purposes of completing short term projects.