

GIS CONSORTIUM SERVICE PROVIDER CONTRACT

This contract (this “**Contract**”) made and entered into this 1st day of January, 2024 (the “**Effective Date**”), by and between the Village of Arlington Heights, an Illinois municipal corporation (hereinafter referred to as the “**Municipality**”), and Municipal GIS Partners, Incorporated, 701 Lee Street, Suite 1020, Des Plaines, Illinois 60016 (hereinafter referred to as the “**Consultant**”).

WHEREAS, the Municipality is a member of the Geographic Information System Consortium (“**GISC**”);

WHEREAS, the Consultant is a designated service provider for the members of GISC and is responsible for providing the necessary professional staffing resource support services as more fully described herein (the “**Services**”) in connection with the Municipality’s geographical information system (“**GIS**”);

WHEREAS, the Municipality desires to engage the Consultant to provide the Services on the terms set forth herein; and

WHEREAS, the Consultant hereby represents itself to be in compliance with Illinois statutes relating to professional registration applicable to individuals performing the Services hereunder and has the necessary expertise and experience to furnish the Services upon the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the foregoing and of the promises hereinafter set forth, it is hereby agreed by and between the Municipality and the Consultant that:

SECTION 1 SCOPE OF SERVICES

1.1 Statement of Work. This Contract contains the basic terms and conditions that will govern the overall relationship between the Consultant and the Municipality. The Consultant will provide the Services described in the statement of work attached hereto as **Attachment 1** (“**Statement of Work**”), which shall become a part of and subject to this Contract.

1.2 Supplemental Statements of Work. Any additional services to be performed by the Consultant may be added to this Contract after the Effective Date by the mutual agreement of the parties, which agreement will be evidenced by mutual execution of a Supplemental Statement of Work which shall also be subject to the terms and conditions set forth in this Contract.

1.3 Additional Compensation. If the Consultant wishes to make a claim for additional compensation as a result of action taken by the Municipality, the Consultant shall give written notice of its claim within fifteen (15) days after occurrence of such action. Regardless of the decision of the Municipality Manager relative to a claim submitted by the Consultant, all work required under this Contract as determined by the Municipality Manager shall proceed without interruption.

1.4 Contract Governs. If there is a conflict between the terms of this Contract and the Statement of Work or any Supplemental Statement of Work, unless otherwise specified in such Statement of Work, the terms of this Contract shall supersede the conflicting provisions contained in such Statement of Work.

SECTION 2 PERFORMANCE OF WORK

2.1 All work hereunder shall be performed under the direction of the Village Manager or their designee (hereinafter referred to as the “***Municipality Manager***”) in accordance with the terms set forth in this Contract and each relevant Statement of Work.

SECTION 3 RELATIONSHIP OF PARTIES

3.1 Independent Contractor. The Consultant shall at all times be an independent contractor, engaged by the Municipality to perform the Services. Nothing contained herein shall be construed to constitute a partnership, joint venture or agency relationship between the parties.

3.2 Consultant and Employees. Neither the Consultant nor any of its employees shall be considered to be employees of the Municipality for any reason, including but not limited to for purposes of workers’ compensation law, Social Security, or any other applicable statute or regulation.

3.3 No Authority to Bind. Unless otherwise agreed to in writing, neither party hereto has the authority to bind the other to any third party or to otherwise act in any way as the representative of the other.

SECTION 4 PAYMENT TO THE CONSULTANT

4.1 Payment Terms. The Municipality agrees to pay the Consultant in accordance with the terms and amounts set forth in the applicable Statement of Work, provided that:

(a) The Consultant shall submit invoices in a format approved by the Municipality.

(b) The Consultant shall maintain records showing actual time devoted to each aspect of the Services performed and cost incurred. The Consultant shall permit the authorized representative of the Municipality to inspect and audit all data and records of the Consultant for work done under this Contract. The Consultant shall make these records available at reasonable times during this Contract period, and for a year after termination of this Contract.

(c) The service rates and projected utilization set forth in the applicable Statement of Work shall adjust each calendar year in accordance with the annual rates approved by the Board of Directors of GISC which shall be reflected in a Supplemental Statement of Work.

(d) Payments to the Consultant shall be made pursuant to the Illinois Local Government Prompt Payment Act (50 ILCS 505/1 et seq.).

(e) The Municipality is a tax-exempt municipality and will provide Consultant with a copy of the Municipality's current sales tax exemption certificate. Consultant shall not charge the Municipality any tax incurred by the Consultant for these Services.

4.2 Service Rates. The fees and/or service rates set forth in the Statement of Work and Supplemental Statement of Work include all applicable federal, state, and local taxes of every kind and nature applicable to the Services as well as all taxes, contributions, and premiums for unemployment insurance, old age or retirement benefits, pensions, annuities, or similar benefits and all costs, royalties and fees arising from the use of, or the incorporation into, the Services, of patented or copyrighted equipment, materials, supplies, tools, appliances, devices, processes, or inventions. All claim or right to claim additional compensation by reason of the payment of any such tax, contribution, premium, costs, royalties, or fees is hereby waived and released by Consultant.

SECTION 5 TERM

5.1 Initial Term. Subject to earlier termination pursuant to the terms of this Contract, the initial term of this Contract shall commence on the Effective Date and remain in effect for one (1) year (the "**Initial Term**").

5.2 Renewal Terms. The Initial Term may be extended for successive one (1) year periods or for any other period as mutually agreed to in writing and set forth in a Supplemental Statement of Work executed by both parties (each, a "**Renewal Term**").

5.3 Status of this Contract. The expiration of the Initial Term or a Renewal Term shall not terminate or affect the obligations of the Parties to each other under any existing Statement of Work or Supplemental Statement of Work issued pursuant to this Contract, and such Statement of Work or Supplemental Statement of Work shall continue in full force and effect and shall continue to be governed by the terms of this Contract until the expiration or completion of such Statement of Work or Supplement Statement of Work or until such Statement of Work or Supplemental Statement of Work is itself terminated pursuant to this Contract.

SECTION 6 TERMINATION OF CONTRACT

6.1 Voluntary Termination. Notwithstanding any other provision hereof, (a) the Municipality may terminate this Contract, any Statement of Work, or any Supplemental Statement of Work during the Initial Term or any Renewal Term, with or without cause, at any time upon ninety (90) calendar days prior written notice to the Consultant.; (b) the Consultant may terminate this Contract, any Statement of Work, or any Supplemental Statement of Work, with or without cause, at any time upon one hundred eighty (180) calendar days prior written notice to the Municipality; or (c) following the expiration of the Term of this Agreement, and notwithstanding Section 5.3 of this Agreement, either Party may terminate any Statement of Work or any

Supplemental Statement of Work, with or without cause, upon thirty (30) calendar days prior written notice to the other Party.

6.2 Termination for Breach. Either party may terminate this Contract upon written notice to the other party following a material breach of a material provision of this Contract by the other party if the breaching party does not cure such breach within fifteen (15) days of receipt of written notice of such breach from the non-breaching party.

6.3 Payment for Services Rendered. In the event that this Contract is terminated in accordance with this Section 6, the Consultant shall be paid for services actually performed and reimbursable expenses actually incurred.

6.4 Effect of Termination. Termination of any Statement of Work or Supplemental Statement of Work will have no effect on this Contract. Termination of this Contract will serve to immediately terminate all open Statements of Work and Supplemental Statements of Work, absent a written agreement between the parties otherwise. Termination or expiration of this Contract, any Statement of Work, or any Supplemental Statement of Work will not affect any right or obligation of a party that comes into effect before, upon, or after such termination or expiration, or otherwise survives such termination or expiration, which was incurred by such party prior to such termination or expiration.

SECTION 7 CONSULTANT PERSONNEL AND SUBCONTRACTORS

7.1 Adequate Staffing. The Consultant must assign and maintain during the term of this Contract and any renewal thereof, an adequate staff of competent employees, agents, or subcontractors (“**Consultant Personnel**”) that is fully equipped, licensed as appropriate and qualified to perform the Services as required by the Statement of Work or Supplemental Statement of Work.

7.2 Availability of Personnel. The Consultant shall notify the Municipality as soon as practicable prior to terminating the employment of, reassigning, or receiving notice of the resignation of, any Consultant Personnel assigned to provide the Municipality with the Services. The Consultant shall have no claim for damages and shall not bill the Municipality for additional time and materials charges as the result of any portion of the Services which must be duplicated or redone due to such termination or for any delay or extension of the time of performance as a result of any such termination, reassigning, or resignation.

7.3 Use of Subcontractors. The Consultant’s use of any subcontractor or subcontract to perform the Services shall not relieve the Consultant of full responsibility and liability for the provision, performance, and completion of the Services as required by this Contract. All Services performed under any subcontract shall be subject to all of the provisions of this Contract in the same manner as if performed by employees of the Consultant. Consultant shall be fully responsible and assumes liability for the acts and omissions of all subcontractors directly or indirectly employed by, or working at the direction of, the Consultant in the performance of the Services.

7.4 Removal of Personnel and Subcontractors. Municipality may, upon written notice to Consultant, request that any Consultant Personnel be removed or replaced. Consultant shall

promptly endeavor to replace such Consultant Personnel and Municipality shall have no claim for damages for a delay or extension of the applicable Statement of Work as a result of any such removal or replacement.

7.5 Non-Solicitation of Consultant Employees. The Municipality agrees that during the term of this Contract and for a period of one (1) year thereafter, it shall not, directly or indirectly, through any other person, firm, corporation or other entity, solicit, induce, encourage or attempt to induce or encourage any employee of the Consultant to terminate his or her employment with the Consultant or to breach any other obligation to the Consultant. The Municipality acknowledges that the aforementioned restrictive covenant contained in this Section is reasonable and properly required for the adequate protection of the Consultant's business.

SECTION 8

ACCOMMODATION OF CONSULTANT PERSONNEL; MUNICIPAL FACILITIES

8.1 Facilities, Equipment, and Records. The Municipality shall provide the Consultant with adequate and safe office space, furnishings, records, hardware, software and connectivity to fulfill the objectives of the GIS program including, without limitation, the following:

(a) Office space for the Consultant's Personnel. This space should effectively and securely house all required GIS systems, peripherals and support tools. This space must be available during normal business hours;

(b) Furnishings including adequate desk(s), shelving, and seating for the Consultant's Personnel;

(c) Hardware, software, peripherals, internet access, and network connectivity meeting current minimum technical standards, as determined by Consultant from time to time, to perform the program objectives efficiently; and

(d) Any Municipality data or record which is necessary for carrying out the work as outlined in the Contract, Statement of Work or Supplemental Statement of Work.

8.2 Backup and Recovery Systems. The Municipality shall be responsible for installing, operating and monitoring the backup and recovery systems for all the Municipality's GIS assets that permit the Consultant to continue Services within a reasonable period of time following a disaster or outage. The Consultant shall be responsible for installing, operating and monitoring the backup and recovery systems for all Consultant's assets that permit the Municipality to continue accessing the GISC Materials and Services within a reasonable period of time following a disaster or outage.

8.3 Right of Entry; Limited Access. Consultant's Personnel performing Services shall be permitted to enter upon the Municipality's property in connection with the performance of the Services, subject to those rules established by the Municipality. Consent to enter upon a Municipality's facility given by the Municipality shall not create, nor be deemed to imply, the creation of any additional responsibilities on the part of the Municipality. Consultant's Personnel shall have the right to use only those facilities of the Municipality that are necessary to perform the Services and shall have no right to access any other facilities of the Municipality.

8.4 Compliance with Law. The Municipality shall comply with all applicable local, state, and federal laws including those pertaining to safety, harassment, and discrimination.

SECTION 9

CONFIDENTIAL INFORMATION; INTELLECTUAL PROPERTY; FOIA

9.1 Municipal Materials. The Consultant acknowledges and agrees that all trademarks, service marks, logos, tradenames and images provided by or on behalf of the Municipality to the Consultant for use in performing the Services and the GIS database (including files created from the database) created by Consultant hereunder (the “***Municipal Materials***”) are the sole and exclusive property of the Municipality. The Consultant acknowledges that this Contract is not a license to use the Municipal Materials except as needed to perform the Services hereunder.

9.2 Third-Party Materials. If applicable, to the extent the Consultant has agreed to obtain and/or license Third-Party Materials on behalf of Municipality, the Consultant shall obtain a license for Municipality to use the Third-Party Materials as part of the Services for the purpose specified in the applicable Statement of Work. “***Third-Party Materials***” shall include, but are not limited to, computer software, script or programming code or other materials owned by third parties and/or any software available from third parties, that is licensed by Consultant for the benefit of the Municipality.

9.3 GISC Materials. It is expressly understood that, excluding the Municipal Materials and Third-Party Materials, all members of GISC and the Consultant may use or share in any improvements or modifications incorporated into any computer software (in object code and source code form), script or programming code used or developed by the Consultant in providing Services hereunder (the “***GISC Materials***”).

(a) The Consultant hereby grants the Municipality a limited, personal, nontransferable, non-exclusive license to use the GISC Materials solely for the purpose of and in connection with the Municipality’s GIS. Upon expiration or termination of this Contract, or at such time the Municipality is no longer a member of GISC or in breach of its obligations hereunder, the Municipality shall not be entitled to or granted a license in future enhancements, improvements or modifications in the GISC Materials. The Municipality may grant a sublicense to a third party that the Municipality engages to maintain or update the GISC Materials in connection with the Municipality’s GIS; provided that such third party agrees in writing to be bound by the license restrictions set forth in this Contract.

(b) The Municipality acknowledges that the Consultant is in the business of providing staffing resource support services and that the Consultant shall have the right to provide services and deliverables to third parties that are the same or similar to the services that are to be rendered under this Contract, and to use or otherwise exploit any GISC Materials in providing such services.

9.4 Confidential Information. In the performance of this Contract, the Consultant may have access to or receive certain information in the possession of the Municipality that is not generally known to members of the public (“***Confidential Information***”). The Consultant acknowledges that Confidential Information includes, but is not limited to, proprietary

information, copyrighted material, educational records, employee data, financial information, information relating to health records, resident account information, and other information of a personal nature. Consultant shall not use or disclose any Confidential Information without the prior written consent of the Municipality. Consultant 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 Municipality. Upon the expiration or termination of this Contract, Consultant shall promptly cease using and shall return or destroy (and certify in writing destruction of) all Confidential Information furnished by the Municipality along with all copies thereof in its possession including copies stored in any computer memory or storage medium. The term "Confidential Information" does not include information that (a) is or becomes generally available to the public other than as a result of a breach of this Contract by the Consultant; (b) was in the Consultant's or Consultant Personnel's possession on a non-confidential basis from any source other than the Municipality, which source, to the knowledge of the Consultant, is entitled to disclose such information without breach of any obligation of confidentiality; (c) is independently developed by the Consultant without the use of or reference to, in whole or in part, any Confidential Information; (d) required to be disclosed pursuant to a court order issued by a court having jurisdiction thereof (subject to Section 9.5); or (e) information subject to disclosure under FOIA (as defined below in Section 9.6). For avoidance of doubt, it is agreed that the GISC Materials shall not be considered Confidential Information.

9.5 Dissemination of Confidential Information. Unless directed by the Municipality, Consultant shall not disseminate any Confidential Information. If Consultant is presented with a request for documents by any administrative agency or with a subpoena *duces tecum* regarding any Confidential Information which may be in Consultant's possession as a result of Services provided under this Contract, unless prohibited by law, Consultant shall immediately give notice to the Municipality with the understanding that the Municipality 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. Consultant 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. Consultant shall cause its personnel, staff and subcontractors, if any, to undertake the same obligations regarding confidentiality and dissemination of information as agreed to by Consultant under this Contract.

9.6 Freedom of Information Act Requests. Within four (4) business days after the Municipality's Notice to the Consultant of the Municipality's receipt of a request made pursuant to the Illinois Freedom of Information Act (ILCS 140/1 et seq. – herein "FOIA"), the Consultant shall furnish all requested records in the Consultant's possession which are in any manner related to this Contract or the Consultant's performance of the Services, including but not limited to any documentation related to the Municipality and associated therewith. The Consultant shall not apply any costs or charge any fees to the Municipality or any other person, firm or corporation for its procurement and retrieval of such records in the Consultant's possession which are sought to be copied or reviewed in accordance with such FOIA request or requests. The Consultant shall defend, indemnify and hold harmless the Municipality including its several departments and including its officers and employees and shall pay all of the Consultant's Costs associated with such FOIA request or requests including Costs arising from the Consultant's failure or alleged failure to timely furnish such documentation and/or arising from the Consultant's failure or alleged failure otherwise to comply with the FOIA, whether or not associated with the Consultant's and/or

the Municipality's defense of any litigation associated therewith. In addition, if the Consultant requests the Municipality to deny the FOIA request or any portion thereof by utilizing one or more of the lawful exemptions provided for in the FOIA, the Consultant shall pay all Costs in connection therewith. As used herein, "in the Consultant's possession" includes documents in the possession of any of the Consultant's officers, agents, employees and/or independent contractors; and "Costs" includes but is not limited to attorneys' fees, witness fees, filing fees and any and all other expenses — whether incurred by the Municipality or the Consultant.

9.7 News Releases. The Consultant may not issue any news releases without prior approval from the Municipality Manager nor will the Consultant make public proposals developed under this Contract without prior written approval from the Municipality Manager.

9.8 Survive Termination. The provisions of Section 9.1 and 9.4 through and including 9.8 shall survive the termination of this Contract.

SECTION 10 LIMITATION OF LIABILITY

10.1 THE REPRESENTATIONS SET FORTH IN THIS CONTRACT ARE EXCLUSIVE AND IN LIEU OF ALL OTHER REPRESENTATIONS AND WARRANTIES, EXPRESS OR IMPLIED, ARISING BY LAW OR OTHERWISE, INCLUDING BUT NOT LIMITED TO ANY FITNESS FOR A PARTICULAR PURPOSE OR ANY IMPLIED WARRANTIES ARISING FROM TRADE USAGE, COURSE OF DEALING OR COURSE OF PERFORMANCE. UNDER NO CIRCUMSTANCES SHALL EITHER THE CONSULTANT OR THE MUNICIPALITY BE LIABLE TO THE OTHER FOR ANY INDIRECT, CONSEQUENTIAL, SPECIAL OR INCIDENTAL DAMAGES, INCLUDING LOST SALES OR PROFITS, IN CONNECTION WITH THIS CONTRACT, EVEN IF IT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

SECTION 11 CONSULTANT WARRANTY; INDEMNIFICATION; INSURANCE

11.1 Warranty of Services. The Consultant warrants that the Services shall be performed in accordance with industry standards of professional practice, care, and diligence practiced by recognized consulting firms in performing services of a similar nature in existence at the time of the Effective Date.

11.2 Indemnification. The Consultant shall indemnify and save harmless the Municipality and its officers, employees, and agents from and against any and all loss, liability and damages of whatever nature, including Workmen's Compensation claims by Consultant's employees, in any way resulting from or arising out of the intentional, willful and wanton, negligent and/or gross negligent actions or omissions of the Consultant, the Consultant's employees and agents.

11.3 Insurance. The Consultant must procure and maintain, for the duration of this Contract, insurance as provided in **Attachment 2** to this Contract.

11.4 No Personal Liability No official, director, officer, agent, or employee of any party shall be charged personally or held contractually liable by or to the other party under any term or provision of this Contract or because of its or their execution, approval or attempted execution of this Contract.

SECTION 12 GENERAL PROVISIONS

12.1 Equal Employment Opportunity Clause. In the event of the Consultant's non-compliance with the provisions of this Section 12.1 or the Illinois Human Rights Act, 775 ILCS 5/1-101, *et seq.*, as it may be amended from time to time, and any successor thereto (the "**Act**"), the Consultant may be declared ineligible for future contracts or subcontracts with the State of Illinois or any of its political subdivisions or municipal corporations, and this Contract may be cancelled or voided in whole or in part, and other sanctions or penalties may be imposed or remedies invoked as provided by statute or regulation. During the performance of this Contract, the Consultant agrees as follows:

(a) The Consultant will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, marital status, order of protection status, national origin or ancestry, citizenship status, age, physical or mental disability unrelated to ability, military status or an unfavorable discharge from military service; and, further, the Consultant will examine all job classifications to determine if minority persons or women are underutilized and will take appropriate affirmative action to rectify any underutilization.

(b) That, if the Consultant hires additional employees in order to perform this Contract or any portion of this Contract, the Consultant will determine the availability (in accordance with 44 Ill. Admin. C. 750.5, *et seq.*, as it may be amended from time to time, and any successor thereto (the "**Applicable Regulations**")) of minorities and women in the areas from which the Consultant may reasonably recruit and the Consultant will hire for each job classification for which employees are hired in a way that minorities and women are not underutilized.

(c) That, in all solicitations or advertisements for employees placed by the Consultant or on the Consultant's behalf, the Consultant will state that all applicants will be afforded equal opportunity without discrimination because of race, color, religion, sex, sexual orientation, marital status, order of protection status, national origin or ancestry, citizenship status, age, physical or mental disability unrelated to ability, military status or an unfavorable discharge from military service.

(d) That the Consultant will send to each labor organization or representative of workers with which the Consultant has or is bound by a collective bargaining or other agreement or understanding, a notice advising the labor organization or representative of the Consultant's obligations under the Act and the Applicable Regulations. If any labor organization or representative fails or refuses to cooperate with the Consultant in the Consultant's efforts to comply with the Act and the Applicable Regulations, the Consultant will promptly notify the Illinois Department of Human Rights (the "**Department**") and the Municipality and will recruit employees from other sources when necessary to fulfill its obligations under the Contract.

(e) That the Consultant will submit reports as required by the Applicable Regulations, furnish all relevant information as may from time to time be requested by the Department or the Municipality, and in all respects comply with the Act and the Applicable Regulations.

(f) That the Consultant will permit access to all relevant books, records, accounts and work sites by personnel of the Municipality and the Department for purposes of investigation to ascertain compliance with the Act and the Department's Rules and Regulations.

(g) That the Consultant will include verbatim or by reference the provisions of this Section 12.1 in every subcontract awarded under which any portion of the Contract obligations are undertaken or assumed, so that the provisions will be binding upon the subcontractor. In the same manner as with other provisions of this Contract, the Consultant will be liable for compliance with applicable provisions of this Section 12.1 by subcontractors; and further the Consultant will promptly notify the Municipality and the Department in the event any subcontractor fails or refuses to comply with the provisions. In addition, the Consultant will not utilize any subcontractor declared by the Illinois Human Rights Commission to be ineligible for contracts or subcontracts with the State of Illinois or any of its political subdivisions or municipal corporations.

12.2 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.*

12.3 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).

12.4 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 Municipality or Consultant with respect to this Contract or the Services.

12.5 Assignments and Successors. This Contract and each and every portion thereof shall be binding upon the successors and the assigns of the parties hereto; provided, however, that

no assignment, delegation or subcontracting shall be made without the prior written consent of the Municipality.

12.6 Severability. The parties intend and agree that, if any paragraph, subparagraph, phrase, clause, or other provision of this Contract, or any portion thereof, shall be held to be void or otherwise unenforceable, all other portions of this Contract shall remain in full force and effect.

12.7 Third Party Beneficiary. No claim as a third party beneficiary under this Contract by any person, firm, or corporation other than the Consultant shall be made or be valid against the Municipality.

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

12.9 Governing Laws. This Contract shall be interpreted according to the internal laws, but not the conflict of laws rules, of the State of Illinois. Venue shall reside in Cook County, Illinois.

12.10 Headings. The headings of the several paragraphs of this Contract are inserted only as a matter of convenience and for reference and in no way are they intended to define, limit, or describe the scope of intent of any provision of this Contract, nor shall they be construed to affect in any manner the terms and provisions hereof or the interpretation or construction thereof.

12.11 Modification or Amendment. This Contract constitutes the entire Contract of the parties on the subject matter hereof and may not be changed, modified, discharged, or extended except by written amendment or Supplemental Statement of Work duly executed by the parties. Each party agrees that no representations or warranties shall be binding upon the other party unless expressed in writing herein or in a duly executed amendment hereof.

12.12 Attachments. Attachments 1 and 2 are attached hereto, and by this reference incorporated in and made a part of this Contract. In the event of a conflict between any Attachment and the text of this Contract, the text of this Contract shall control.

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

12.14 Good Faith Negotiation. Before commencing any legal action, the parties agree to enter into good faith negotiations to resolve any controversy, claim, or dispute (“**Dispute**”). Such good faith negotiations shall commence promptly upon a party’s receipt of notice of any Dispute from the other party and continue for a period of fourteen (14) days or any period of time as mutually agreed upon.

12.15 Notices. All notices, reports and documents required under this Contract shall be in writing (including prepaid overnight courier, electronic transmission or similar writing) and shall

be given to such party at its address or e-mail address set forth below, or at such other address or e-mail address as such party may hereafter specify from time to time. Each such notice shall be effective (i) if given by first class mail or prepaid overnight courier, when received, or (ii) if sent to an e-mail address, upon the sender's receipt of an acknowledgment from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgment).

If to Municipality: Village of Arlington Heights
33 S Arlington Heights Rd
Arlington Heights, IL 60005
Attention: Diana Mikula
E-mail: dmikula@vah.com

If to Consultant: Municipal GIS Partners, Incorporated
701 Lee Street, Suite 1020
Des Plaines, IL 60016
Attention: Thomas Thomey
E-mail: tthomey@mgpinc.com

12.16 Force Majeure. No party to this Contract shall be responsible or liable for, or deemed in breach hereof because of, any delay in the performance of its respective obligations under this Contract to the extent that such delay is due substantially to circumstances beyond the party's reasonable control and without the fault or negligence of the party experiencing such delay. Such circumstances may include, but are not limited to, any act of God, fire or other casualty, epidemic, quarantine, "stay home" or similar order, strike or labor dispute, embargo, war or violence, act of terrorism, or any law, order, proclamation, ordinance, demand, requirement, action or inaction of any national, state, provincial, local, or other government or governmental agency (each, a "**Force Majeure**"). Upon the occurrence of a Force Majeure, the party experiencing the Force Majeure shall notify the other party in writing immediately following such Force Majeure, but in no case later than three (3) business days after such party becomes aware of the occurrence of the Force Majeure. The written notification shall provide a reasonably detailed explanation of the Force Majeure.

12.17 Counterpart Execution. This Contract, Statement of Work or any Supplemental Statement of Work 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.

12.18 Tort Immunity Defenses. Nothing contained in the Contract is intended to constitute, and nothing in the Contract will constitute, a waiver of the rights, defenses, and immunities provided or available to the Municipality under the Local Governmental and Governmental Employees Tort Immunity Act, 745 ILCS 10 et seq. or any other applicable State law.

[REMAINDER INTENTIONALLY LEFT BLANK; SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the undersigned have placed their hands and seals hereto as of the date first above written.

ATTEST:

VILLAGE OF ARLINGTON HEIGHTS

By: _____
Name: _____
Its: _____

By: _____
Name: _____
Its: _____

ATTEST:

**CONSULTANT: MUNICIPAL GIS
PARTNERS, INCORPORATED**

By: Donna J. Thomey
Name: Donna Thomey
Its: Management Support Specialist

By: Thomas A. Thomey
Name: Thomas A. Thomey
Its: President

Attachment 1

**Statement of Work
to
GIS Consortium Service Provider Contract**

(see attached)

Attachment 2

**Insurance
to
GIS Consortium Service Provider Contract**

(see attached)