

NOTICE OF STANDING COMMITTEES

Scheduled for
Tuesday, July 10, 2018,
beginning at 6:30 p.m. in

Council Chambers
Village Hall of Tinley Park
16250 S. Oak Park Avenue
Tinley Park, Illinois

**Public Works Committee
Community Development Committee**

A copy of the agendas for these meetings is attached hereto.

Kristin A. Thirion
Clerk
Village of Tinley Park

NOTICE OF A MEETING
OF THE COMMUNITY DEVELOPMENT COMMITTEE

Notice is hereby given that a meeting of the Community Development Committee of the Village of Tinley Park, Cook and Will Counties, Illinois, will begin at 6:30 p.m. on Tuesday, July 10, 2018, in Council Chambers at the Village Hall of Tinley Park, 16250 S. Oak Park Avenue, Tinley Park, Illinois.

1. OPEN THE MEETING.
2. CONSIDER APPROVAL OF THE MINUTES OF THE COMMUNITY DEVELOPMENT COMMITTEE MEETING HELD ON MAY 8, 2018.
3. DISCUSS SMALL CELL ORDINANCE.
4. DISCUSS GOVTEMP COMMUNITY DEVELOPMENT DIRECTOR.
5. RECEIVE COMMENTS FROM THE PUBLIC.

ADJOURNMENT

KRISTIN A. THIRION
VILLAGE CLERK

MINUTES
Community Development Committee
May 8, 2018 - 6:30 p.m.
Village Hall of Tinley Park – Council Chambers
16250 S. Oak Park Avenue
Tinley Park, IL 60477

Members Present: M. Glotz, Chairman
W. Brady, Village Trustee
B. Younker, Village Trustee

Members Absent: None

Other Board Members Present: None

Staff Present: D. Niemeyer, Village Manager
P. Carr, Assistant Village Manager
F. Reeder, Fire Chief
K. Workowski, Public Works Director
P. Wallrich, Interim Community Development Director
M. Thomas, Information Technology Director
P. Connelly, Village Attorney
L. Godette, Deputy Village Clerk
L. Carollo, Commission/Committee Secretary

Item #1 - The Community Development Committee Meeting was called to order at 6:30 p.m.

Item #2 – CONSIDER APPROVAL OF THE MINUTES OF THE SPECIAL COMMUNITY DEVELOPMENT COMMITTEE MEETING HELD ON APRIL 17, 2018 – Motion was made by Trustee Younker, seconded by Trustee Brady, to approve the minutes of the Community Development Committee Meeting held on April 17, 2018. Vote by voice call. Chairman Glotz declared the motion carried.

Item #3 – DISCUSS BUILDING PERMIT AND CODE COMPLIANCE SOFTWARE - In late summer 2017, staff began outlining various software needs for the Community Development Department and researched various software systems specifically designed for permitting operations. In December 2017, the Village published a Request for Proposal (RFP) for Building Permit and Code Compliance Software and nine (9) proposals were received on December 18, 2017. A nine (9) member committee was then created to analyze the proposals. The committee was comprised of representatives from the Community Development, Finance, Administration, Information Technology, Public Works and Fire, along with the Village's GIS (Geographic Information System) consultant.

At the conclusion of their research and analysis, the committee selected Maintstar as the preferred software for Building Permit and Code Compliance. In addition, Maintstar's proposal provides modules for health inspections and planning/zoning, has a mobile application that will extend processing capabilities to staff in the field for increased efficiencies and provides a citizen portal that will allow residents to apply for permits remotely. In addition, Maintstar has committed onsite training during software implementation as well as ongoing support to staff. The proposed cost is \$135,500 for the first year, which includes an implementation cost of \$80,000. There will be ongoing operational/maintenance costs with an approximate escalator of 5% annually, year two (2) at \$35,000 and

year three (3) at \$37,000. The approved FY 18-19 Budget identified \$150,000 for acquisition of permitting software and \$50,000 for annual maintenance. Therefore, the proposal is within budget.

Staff requested the Community Development Committee authorize staff to finalize negotiations with Maintstar in an amount not to exceed \$150,000 (budgeted amount) and recommend approval of the committee's selection of the Maintstar Building Permit and Code Compliance Software to the Village Board.

Motion was made by Trustee Younker, seconded by Trustee Brady, to recommend staff to finalize negotiations with Maintstar in an amount not to exceed \$150,000 and recommend approval of the committee's selection of the Maintstar Building Permit and Code Compliance Software to the Village Board. Vote by voice. Chairman Glotz declared the motion carried.

Item #4 – RECEIVE COMMENTS FROM THE PUBLIC - No comments from the public.

ADJOURNMENT

Motion was made by Trustee Younker, seconded by Trustee Brady, to adjourn this meeting of the Community Development Committee. Vote by voice call. Chairman Glotz declared the motion carried and adjourned the meeting at 6:34 p.m.

lc

DRAFT



Interoffice Memo

Date: July 10, 2018

To: Dave Niemeyer, Village Manager

From: Daniel Ritter, AICP
Senior Planner

Subject: Ordinance Regulating Small Cell Antenna/Tower Siting in the Public Right-of-Way

BACKGROUND

S.B. 1451, known as Small Wireless Facilities Deployment Act (the Act) was approved by the Illinois General Assembly and signed by Governor Rauner into law in April 2018. The law establishes state-wide regulations for collocation of small cell antennas located within the public right-of-way and on private commercial and industrial properties. The goal of this Act was to streamline the approval process for wireless providers who provide cellular access to the public. This specifically was geared towards the improvement of 5G networks which typically require greater use of small cell antennas in urbanized areas. The Act pre-empts local authority to regulate the siting of small cell antennas and requires that any small cell antenna collocated in accordance with the Act shall be considered a permitted use within a public right-of-way or on certain commercial or industrial properties. Additionally, the Act sets specific requirements in regards to height limitation, location, permitting process, review process, permit fees, and allowable rent.

Illinois municipalities and government organizations, including the Illinois Municipal League, have been concerned about the effects of the Small Wireless Facilities Deployment Act since it was initially introduced. Concerns continue since its adoption regarding the restrictions the Act places on local communities in regards to regulating location, aesthetics, rent limits, and having control over property paid for and maintained by the Village. A "trailer bill" has been proposed to reestablish more local control over small cell antenna locations and many municipalities have been looking at other legal options going forward. However, none of those options have been finalized as of the date of this memo.

The effective date of the Act was on June 1, 2018 with a two (2) month window from that date for municipalities to introduce their regulations and permitting requirements. Without approval of an ordinance by August 1, 2018, there is the chance that wireless companies would be able to

have “free reign” on new small cell antenna installations in the Village’s right-of-way with no enforceable fees or regulations in effect.

The Illinois Municipal League drafted a “model ordinance” that regulates small cell antenna collocation to the greatest extent allowed by the Act. Staff’s draft ordinance used the Illinois Municipal League’s model ordinance as a template with some minor changes. The ordinance has language that will supersede any Zoning Ordinance requirements for collocated small cell antennas in the right-of-way, but the Zoning Code restrictions will remain intact for any wireless facilities not covered by the Act. A FAQ developed by the Illinois Municipal League has also been attached for your review.

Following adoption of this ordinance, staff is planning to draft design guidelines (color, stealth requirements and consistent equipment, etc.) that can be adopted to help disguise the small cell antenna equipment in the right-of-way and formally amend the Zoning Code once it is clear the law will not have further changes.

REQUEST

The attached ordinance has been drafted and presented based on the recommendation of the Illinois Municipal League, Village Attorneys and Village Planning staff. Staff is requesting the Community Development Committee recommend the attached ordinance be adopted by the Village Board at the July 17, 2018 meeting to ensure that the Village meets the August 1st deadline; this will ensure the Village retains as much control as possible over small cell antenna siting in the public rights-of-way within the Village.



THE VILLAGE OF TINLEY PARK
Cook County, Illinois
Will County, Illinois

ORDINANCE
NO. _____

**AN ORDINANCE AMENDING TITLE IX ENTITLED “GENERAL REGULATIONS”
AND CREATING CHAPTER 106 ENTITLED “SMALL WIRELESS FACILITIES”
PERTAINING TO THE REGULATION OF SMALL WIRELESS FACILITIES**

JACOB C. VANDENBERG, PRESIDENT
KRISTIN A. THIRION, VILLAGE CLERK

MICHAEL J. PANNITTO
BRIAN H. YOUNKER
CYNTHIA A. BERG
WILLIAM P. BRADY
MICHAEL W. GLOTZ
JOHN A. CURRAN
Board of Trustees

Published in pamphlet form by authority of the President and Board of Trustees of the Village of Tinley Park
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VILLAGE OF TINLEY PARK

Cook County, Illinois

Will County, Illinois

ORDINANCE NO. _____

**AN ORDINANCE AMENDING TITLE IX ENTITLED “GENERAL REGULATIONS”
AND CREATING CHAPTER 106 ENTITLED “SMALL WIRELESS FACILITIES”
PERTAINING TO THE REGULATION OF SMALL WIRELESS FACILITIES**

WHEREAS, Section 6(a) of Chapter VII of the 1970 Constitution of the State of Illinois provides that any municipality which has a population of more than 25,000 is a home rule unit, and the Village of Tinley Park, Cook and Will Counties, Illinois, with a population in excess of 25,000 is, therefore, a home rule unit and, pursuant to the provisions of said Section 6(a) of Chapter VII, may exercise any power and perform any function pertaining to its government and affairs, including, but not limited to, the power to tax and to incur debt; and

WHEREAS, the Illinois General Assembly has recently enacted Public Act 100-0585, known as the Small Wireless Facilities Deployment Act (“Act”), which became effective on June 1, 2018; and

WHEREAS, the Village of Tinley Park (“Village”) is authorized, under existing State and federal law, to enact appropriate regulations and restrictions relative to small wireless facilities, distributed antenna systems and other personal wireless telecommunication facility installations in the public right-of-way as long as it does not conflict with State and federal law; and

WHEREAS, the Act sets forth the requirements for the collocation of small wireless facilities by local authorities; and

WHEREAS, the President and Board of Trustees of the Village of Tinley Park hereby find that it is in the best interests of the Village and its residents to amend certain sections Title IX of the Village Code by creating Chapter 106; and

NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF TINLEY PARK, COOK AND WILL COUNTIES, ILLINOIS, AS FOLLOWS:

SECTION ONE: That the Village hereby incorporates all of the recitals above into this Ordinance as if fully set forth herein.

SECTION TWO: That Title IX entitled “GENERAL REGULATIONS” of the Tinley Park Village Code is hereby amended by creating Chapter 106 “SMALL WIRELESS FACILITIES” and adding the following underlined language:

CHAPTER 106: SMALL WIRELESS FACILITIES

Section

106.01	Purpose and Scope.
106.02	Definitions.
106.03.	Regulation of Small Wireless Facilities.
106.04	Collocation Requirements and Conditions.
106.05	Application Fees.
106.06	Exceptions to Applicability.
106.07	Pre-Existing Agreements.
106.08	Annual Recurring Rate.
106.09	Abandonment.
106.10	Dispute Resolution.
106.11	Indemnification.
106.12	Insurance.
106.13	Severability.

§106.01 PURPOSE AND SCOPE.

(a) Purpose. The purpose of this Chapter is to establish regulations, standards, and procedures for the siting and collocation of small wireless facilities on rights-of-way within the Village's jurisdiction, or outside the rights-of-way on property zoned by the Village exclusively for commercial or industrial use, in a manner that is consistent with the Small Wireless Facilities Deployment Act.

(b) Conflicts with Other Chapters. This Chapter supersedes all Chapters or parts of Chapters adopted prior hereto that are in conflict herewith, to the extent of such conflict.

(c) Conflicts with State and Federal Laws. In the event that applicable federal or State laws or regulations conflict with the requirements of this Chapter, the wireless provider shall comply with the requirements of this Chapter to the maximum extent possible without violating federal or State laws or regulations.

§106.02 DEFINITIONS.

The following words, terms, and phrases, when used in this Chapter, shall have the meanings ascribed to them in this Chapter, except when the context clearly indicates a different meaning. Any term not defined in this Chapter shall have the meaning ascribed to it in 92. Ill. Admin. Code 530.30, unless the context clearly requires otherwise.

For the purposes of this Chapter, the following terms shall have the following meanings:

Antenna means communications equipment that transmits or receives electromagnetic radio frequency signals used in the provision of wireless services.

Applicable codes means uniform building, fire, electrical, plumbing, or mechanical codes adopted by a recognized national code organization or local amendments to those codes, including the National Electric Safety Code.

Applicant means any person who submits an application and is a wireless provider.

Application means a request submitted by an applicant to the Village for a permit to collocate small wireless facilities, and a request that includes the installation of a new utility pole for such collocation, as well as any applicable fee for the review of such application.

Collocate or collocation means to install, mount, maintain, modify, operate, or replace wireless facilities on or adjacent to a wireless support structure or utility pole.

Communications service means cable service, as defined in 47 U.S.C. 522(6), as amended; information service, as defined in 47 U.S.C. 153(24), as amended; telecommunications service, as defined in 47 U.S.C. 153(53), as amended; mobile service, as defined in 47 U.S.C. 153(53), as amended; or wireless service other than mobile service.

Communications service provider means a cable operator, as defined in 47 U.S.C. 522(5), as amended; a provider of information service, as defined in 47 U.S.C. 153(24), as amended; a telecommunications carrier, as defined in 47 U.S.C. 153(51), as amended; or a wireless provider.

FCC means the Federal Communications Commission of the United States.

Fee means a one-time charge.

Historic district or historic landmark means a building, property, or site, or group of buildings, properties, or sites that are either (i) listed in the National Register of Historic Places or formally determined eligible for listing by the Keeper of the National Register, the individual who has been delegated the authority by the federal agency to list properties and determine their eligibility for the National Register, in accordance with Section VI.D.1.a.i through Section VI.D.1.a.v of the Nationwide Programmatic Agreement codified at 47 CFR Part 1, Appendix C; or (ii) designated as a locally landmarked building, property, site, or historic district by an Chapter adopted by the Village pursuant to a preservation program that meets the requirements of the Certified Local Government Program of the Illinois State Historic Preservation Office or where such certification of the preservation program by the Illinois State Historic Preservation Office is pending.

Law means a federal or State statute, common law, code, rule, regulation, order, or local Ordinance or resolution.

Micro wireless facility means a small wireless facility that is not larger in dimension than 24 inches in length, 15 inches in width, and 12 inches in height and that has an exterior antenna, if any, no longer than 11 inches.

Municipal utility pole means a utility pole owned or operated by the Village in public rights-of-way.

Permit means a written authorization required by the Village to perform an action or initiate, continue, or complete a project.

Person means an individual, corporation, limited liability company, partnership, association, trust, or other entity or organization.

Public safety agency means the functional division of the federal government, the State, a unit of local government, or a special purpose district located in whole or in part within this State, that provides or has authority to provide firefighting, police, ambulance, medical, or other emergency services to respond to and manage emergency incidents.

Rate means a recurring charge.

Right-of-way means the area on, below, or above a public roadway, highway, street, public sidewalk, alley, or utility easement dedicated for compatible use. Right-of-way does not include Village-owned aerial lines.

Small wireless facility means a wireless facility that meets both of the following qualifications: (i) each antenna is located inside an enclosure of no more than 6 cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an imaginary enclosure of no more than 6 cubic feet; and (ii) all other wireless equipment attached directly to a utility pole associated with the facility is cumulatively no more than 25 cubic feet in volume. The following types of associated ancillary equipment are not included in the calculation of equipment volume: electric meter, concealment elements, telecommunications demarcation box, ground-based enclosures, grounding equipment, power transfer switch, cut-off switch, and vertical cable runs for the connection of power and other services.

Utility pole means a pole or similar structure that is used in whole or in part by a communications service provider or for electric distribution, lighting, traffic control, or a similar function.

Wireless facility means equipment at a fixed location that enables wireless communications between user equipment and a communications network, including: (i) equipment associated with wireless communications; and (ii) radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration. Wireless facility includes small wireless facilities. Wireless facility does not include: (i) the structure or improvements on, under, or within which the equipment is collocated; or (ii) wireline backhaul facilities, coaxial or fiber optic cable that is between wireless support structures or utility poles or coaxial, or fiber optic cable that is otherwise not immediately adjacent to or directly associated with an antenna.

Wireless infrastructure provider means any person authorized to provide telecommunications service in the State that builds or installs wireless communication transmission equipment, wireless

facilities, wireless support structures, or utility poles and that is not a wireless services provider but is acting as an agent or a contractor for a wireless services provider for the application submitted to the Village.

Wireless provider means a wireless infrastructure provider or a wireless services provider.

Wireless services means any services provided to the general public, including a particular class of customers, and made available on a nondiscriminatory basis using licensed or unlicensed spectrum, whether at a fixed location or mobile, provided using wireless facilities.

Wireless services provider means a person who provides wireless services.

Wireless support structure means a freestanding structure, such as a monopole; tower, either guyed or self-supporting; billboard; or other existing or proposed structure designed to support or capable of supporting wireless facilities. Wireless support structure does not include a utility pole.

§106.03 REGULATION OF SMALL WIRELESS FACILITIES.

(a) Permitted Use. Small wireless facilities shall be classified as permitted uses and subject to administrative review, except as provided in paragraph (9) regarding Height Exceptions or Variances, but not subject to zoning review or approval if they are collocated (i) in rights-of-way in any zoning district, or (ii) outside rights-of-way in property zoned exclusively for commercial or industrial use.

(b) Permit Required. An applicant shall obtain one or more permits from the Village to collocate a small wireless facility. An application shall be received and processed, and permits issued shall be subject to the following conditions and requirements:

1. Application Requirements. A wireless provider shall provide the following information to the Village, together with the Village's Small Cell Facilities Permit Application, as a condition of any permit application to collocate small wireless facilities on a utility pole or wireless support structure:

a. Site specific structural integrity and, for a municipal utility pole, make-ready analysis prepared by a structural engineer, as that term is defined in Section 4 of the Structural Engineering Practice Act of 1989;

b. The location where each proposed small wireless facility or utility pole would be installed and photographs of the location and its immediate surroundings depicting the utility poles or structures on which each proposed small wireless facility would be mounted or location where utility poles or structures would be installed. This should include a depiction of the completed facility;

c. Specifications and drawings prepared by a structural engineer, as that term is defined in Section 4 of the Structural Engineering Practice Act of 1989, for each proposed small wireless facility covered by the application as it is proposed to be installed;

- d. The equipment type and model numbers for the antennas and all other wireless equipment associated with the small wireless facility;
- e. A proposed schedule for the installation and completion of each small wireless facility covered by the application, if approved; and
- f. Certification that the collocation complies with the Collocation Requirements and Conditions contained herein, to the best of the applicant's knowledge.
- g. In the event that the proposed small wireless facility is to be attached to an existing pole owned by an entity other than the Village, the wireless provider shall provide legally competent evidence of the consent of the owner of such pole to the proposed collocation.

2. Application Process. The Village shall process applications as follows:

- a. The first completed application shall have priority over applications received by different applicants for collocation on the same utility pole or wireless support structure.
- b. An application to collocate a small wireless facility on an existing utility pole or wireless support structure, or replacement of an existing utility pole or wireless support structure shall be processed on a nondiscriminatory basis and shall be deemed approved if the Village fails to approve or deny the application within 90 days after the submission of a completed application.

However, if an applicant intends to proceed with the permitted activity on a deemed approved basis, the applicant shall notify the Village in writing of its intention to invoke the deemed approved remedy no sooner than 75 days after the submission of a completed application.

The permit shall be deemed approved on the latter of the 90th day after submission of the complete application or the 10th day after the receipt of the deemed approved notice by the Village. The receipt of the deemed approved notice shall not preclude the Village's denial of the permit request within the time limits as provided under this Chapter.

- c. An application to collocate a small wireless facility that includes the installation of a new utility pole shall be processed on a nondiscriminatory basis and deemed approved if the Village fails to approve or deny the application within 120 days after the submission of a completed application.

However, if an applicant intends to proceed with the permitted activity on a deemed approved basis, the applicant shall notify the Village in writing of its intention to invoke the deemed approved remedy no sooner than 105 days after the submission of a completed application.

The permit shall be deemed approved on the latter of the 120th day after submission of the complete application or the 10th day after the receipt of the deemed approved notice by the Village. The receipt of the deemed approved notice shall not preclude the Village's denial of the permit request within the time limits as provided under this Chapter.

d. The Village shall deny an application which does not meet the requirements of this Chapter.

If the Village determines that applicable codes, Ordinances or regulations that concern public safety, or the Collocation Requirements and Conditions contained herein require that the utility pole or wireless support structure be replaced before the requested collocation, approval shall be conditioned on the replacement of the utility pole or wireless support structure at the cost of the provider.

The Village shall document the basis for a denial, including the specific code provisions or application conditions on which the denial is based, and send the documentation to the applicant on or before the day the Village denies an application.

The applicant may cure the deficiencies identified by the Village and resubmit the revised application once within 30 days after notice of denial is sent to the applicant without paying an additional application fee. The Village shall approve or deny the revised application within 30 days after the applicant resubmits the application or it is deemed approved. Failure to resubmit the revised application within 30 days of denial shall require the application to submit a new application with applicable fees, and recommencement of the Village's review period.

The applicant must notify the Village in writing of its intention to proceed with the permitted activity on a deemed approved basis, which may be submitted with the revised application.

Any review of a revised application shall be limited to the deficiencies cited in the denial. However, this revised application does not apply if the cure requires the review of a new location, new or different structure to be collocated upon, new antennas, or other wireless equipment associated with the small wireless facility.

e. Pole Attachment Agreement. Within 30 days after an approved permit to collocate a small wireless facility on a municipal utility pole, the Village and the applicant shall enter into a Master Pole Attachment Agreement, provided by the Village for the initial collocation on a municipal utility pole by the application. For subsequent approved permits to collocate on a small wireless facility on a municipal utility pole, the Village and the applicant shall enter into a License Supplement of the Master Pole Attachment Agreement.

3. Completeness of Application. Within 30 days after receiving an application, the Village shall determine whether the application is complete and notify the applicant. If an application is incomplete, the Village must specifically identify the missing information. An application shall be deemed complete if the Village fails to provide notification to the applicant within 30 days after all documents, information and fees specifically enumerated in the Village's permit application form are submitted by the applicant to the Village.

Processing deadlines are tolled from the time the Village sends the notice of incompleteness to the time the applicant provides the missing information.

4. Tolling. The time period for applications may be further tolled by:

- a. An express written agreement by both the applicant and the Village; or
- b. A local, State or federal disaster declaration or similar emergency that causes the delay.

5. Consolidated Applications. An applicant seeking to collocate small wireless facilities within the jurisdiction of the Village shall be allowed, at the applicant's discretion, to file a consolidated application and receive a single permit for the collocation of up to 25 small wireless facilities if the collocations each involve substantially the same type of small wireless facility and substantially the same type of structure.

If an application includes multiple small wireless facilities, the Village may remove small wireless facility collocations from the application and treat separately small wireless facility collocations for which incomplete information has been provided or that do not qualify for consolidated treatment or that are denied. The Village may issue separate permits for each collocation that is approved in a consolidated application.

6. Duration of Permits. The duration of a permit shall be for a period of not less than 5 years, and the permit shall be renewed for equivalent durations unless the Village makes a finding that the small wireless facilities or the new or modified utility pole do not comply with the applicable Village codes or any provision, condition or requirement contained in this Chapter.

If the Act is repealed as provided in Section 90 therein, renewals of permits shall be subject to the applicable Village code provisions or regulations in effect at the time of renewal.

7. Means of Submitting Applications. Applicants shall submit applications, supporting information and notices to the Village by personal delivery at the Village's designated place of business, by regular mail postmarked on the date due or by any other commonly used means, including electronic mail.

§106.04 COLLOCATION REQUIREMENTS AND CONDITIONS.

1. Public Safety Space Reservation. The Village may reserve space on municipal utility poles for future public safety uses, for the Village's electric utility uses, or both, but a reservation of space may not preclude the collocation of a small wireless facility unless the Village reasonably determines that the municipal utility pole cannot accommodate both uses.

2. Installation and Maintenance. The wireless provider shall install, maintain, repair and modify its small wireless facilities in safe condition and good repair and in compliance with the requirements and conditions of this Chapter. The wireless provider shall ensure that its employees, agents or contracts that perform work in connection with its small wireless facilities are adequately trained and skilled in accordance with all applicable industry and governmental standards and regulations.

3. No interference with public safety communication frequencies. The wireless provider's operation of the small wireless facilities shall not interfere with the frequencies used by a public safety agency for public safety communications.

A wireless provider shall install small wireless facilities of the type and frequency that will not cause unacceptable interference with a public safety agency's communications equipment.

Unacceptable interference will be determined by and measured in accordance with industry standards and the FCC's regulations addressing unacceptable interference to public safety spectrum or any other spectrum licensed by a public safety agency.

If a small wireless facility causes such interference, and the wireless provider has been given written notice of the interference by the public safety agency, the wireless provider, at its own expense, shall remedy the interference in a manner consistent with the abatement and resolution procedures for interference with public safety spectrum established by the FCC including 47 CFR 22.970 through 47 CFR 22.973 and 47 CFR 90.672 through 47 CFR 90.675.

The Village may terminate a permit for a small wireless facility based on such interference if the wireless provider is not in compliance with the Code of Federal Regulations cited in the previous paragraph. Failure to remedy the interference as required herein shall constitute a public nuisance.

4. The wireless provider shall not collocate small wireless facilities on Village utility poles that are part of an electric distribution or transmission system within the communication worker safety zone of the pole or the electric supply zone of the pole.

However, the antenna and support equipment of the small wireless facility may be located in the communications space on the Village utility pole and on the top of the pole, if not otherwise unavailable, if the wireless provider complies with applicable codes for work involving the top of the pole.

For purposes of this subparagraph, the terms "communications space", "communication worker safety zone", and "electric supply zone" have the meanings given to those terms in the National Electric Safety Code as published by the Institute of Electrical and Electronics Engineers.

5. The wireless provider shall comply with all applicable codes and local code provisions or regulations that concern public safety.

6. The wireless provider shall comply with written design standards that are generally applicable for decorative utility poles, or reasonable stealth, concealment and aesthetic requirements that are set forth in a Village Ordinance, written policy adopted by the Village, a comprehensive plan or other written design plan that applies to other occupiers of the rights-of-way, including on a historic landmark or in a historic district.

7. Alternate Placements. Except as provided in this Collocation Requirements and Conditions Chapter, a wireless provider shall not be required to collocate small wireless facilities on any specific utility pole, or category of utility poles, or be required to collocate multiple antenna systems on a single utility pole. However, with respect to an application for the collocation of a small wireless facility associated with a new utility pole, the Village may propose that the small wireless facility be collocated on an existing utility pole or existing wireless support structure

within 100 feet of the proposed collocation, which the applicant shall accept if it has the right to use the alternate structure on reasonable terms and conditions, and the alternate location and structure does not impose technical limits or additional material costs as determined by the applicant.

If the applicant refuses a collocation proposed by the Village, the applicant shall provide written certification describing the property rights, technical limits or material cost reasons the alternate location does not satisfy the criteria in this paragraph.

8. Height Limitations. The maximum height of a small wireless facility shall be no more than 10 feet above the utility pole or wireless support structure on which the small wireless facility is collocated.

New or replacement utility poles or wireless support structures on which small wireless facilities are collocated may not exceed the higher of:

a. 10 feet in height above the tallest existing utility pole, other than a utility pole supporting only wireless facilities, that is in place on the date the application is submitted to the Village, that is located within 300 feet of the new or replacement utility pole or wireless support structure and that is in the same right-of-way within the jurisdictional boundary of the Village, provided the Village may designate which intersecting right-of-way within 300 feet of the proposed utility pole or wireless support structures shall control the height limitation for such facility; or

b. 45 feet above ground level.

9. Height Exceptions or Variances. If an applicant proposes a height for a new or replacement pole in excess of the above height limitations on which the small wireless facility is proposed for collocation, the applicant shall apply for a Variation in conformance with procedures, terms and conditions set forth in Tinley Park Zoning Ordinance.

10. Contractual Design Requirements. The wireless provider shall comply with requirements that are imposed by a contract between the Village and a private property owner that concern design or construction standards applicable to utility poles and ground-mounted equipment located in the right-of-way.

11. Ground-mounted Equipment Spacing. The wireless provider shall comply with applicable spacing requirements in applicable codes and Ordinances concerning the location of ground-mounted equipment located in the right-of-way if the requirements include a waiver, zoning or other process that addresses wireless provider requests for exception or variance and do not prohibit granting of such exceptions or variances.

12. Undergrounding Regulations. The wireless provider shall comply with local code provisions or regulations concerning undergrounding requirements that prohibit the installation of new or the modification of existing utility poles in a right-of-way without prior approval if the requirements include a waiver, zoning or other process that addresses requests to install such new

utility poles or modify such existing utility poles and do not prohibit the replacement of utility poles.

13. Collocation Completion Deadline. Collocation for which a permit is granted shall be completed within 180 days after issuance of the permit, unless the Village and the wireless provider agree to extend this period or a delay is caused by make-ready work for a municipal utility pole or by the lack of commercial power or backhaul availability at the site, provided the wireless provider has made a timely request within 60 days after the issuance of the permit for commercial power or backhaul services, and the additional time to complete installation does not exceed 360 days after issuance of the permit. Otherwise, the permit shall be void unless the Village grants an extension in writing to the applicant.

§106.05 APPLICATION FEES.

1. Application fees are imposed as follows:

2. Applicant shall pay an application fee of \$650 for an application to collocate a single small wireless facility on an existing utility pole or wireless support structure, and \$350 for each small wireless facility addressed in a consolidated application to collocate more than one small wireless facility on existing utility poles or wireless support structures.

Applicant shall pay an application fee of \$1,000 for each small wireless facility addressed in an application that includes the installation of a new utility pole for such collocation.

3. Notwithstanding any contrary provision of State law or local Chapter, applications pursuant to this Chapter shall be accompanied by the required application fee. Application fees shall be non-refundable.

4. The Village shall not require an application, approval or permit, or require any fees or other charges, from a communications service provider authorized to occupy the rights-of-way, for:

a. routine maintenance;

b. the replacement of wireless facilities with wireless facilities that are substantially similar, the same size, or smaller if the wireless provider notifies the Village at least 10 days prior to the planned replacement and includes equipment specifications for the replacement of equipment consistent with section d under the Section titled Application Requirements; or

c. the installation, placement, maintenance, operation or replacement of micro wireless facilities suspended on cables that are strung between existing utility poles in compliance with applicable safety codes.

5. Wireless providers shall secure a permit from the Village to work within rights-of-way for activities that affect traffic patterns or require lane closures.

§106.06 EXCEPTIONS TO APPLICABILITY.

Nothing in this Chapter authorizes a person to collocate small wireless facilities on:

1. property owned by a private party or property owned or controlled by the Village or another unit of local government that is not located within rights-of-way, or a privately-owned utility pole or wireless support structure without the consent of the property owner;
2. property owned, leased, or controlled by a park district, forest preserve district, or conservation district for public park, recreation or conservation purposes without the consent of the affected district, excluding the placement of facilities on rights-of-way located in an affected district that are under the jurisdiction and control of a different unit of local government as provided by the Illinois Highway Code; or
3. property owned by a rail carrier registered under Section 18c-7201 of the Illinois Vehicle Code, Metra Commuter Rail or any other public commuter rail service, or an electric utility as defined in Section 16-102 of the Public Utilities Act, without the consent of the rail carrier, public commuter rail service, or electric utility. The provisions of this Chapter do not apply to an electric or gas public utility or such utility's wireless facilities if the facilities are being used, developed and maintained consistent with the provisions of subsection (i) of Section 16-108.5 of the Public Utilities Act.
4. For the purposes of this Chapter, "public utility" has the meaning given to that term in Section 3-105 of the Public Utilities Act. Nothing in this Chapter shall be construed to relieve any person from any requirement (a) to obtain a franchise or a State-issued authorization to offer cable service or video service or (b) to obtain any required permission to install, place, maintain, or operate communications facilities, other than small wireless facilities subject to this Chapter.

§106.07 PRE-EXISTING AGREEMENTS.

Existing agreements between the Village and wireless providers that relate to the collocation of small wireless facilities in the right-of-way, including the collocation of small wireless facilities on Village utility poles, that are in effect on July 1, 2018, remain in effect for all small wireless facilities collocated on the Village's utility poles pursuant to applications submitted to the Village before July 1, 2018, subject to applicable termination provisions contained therein. Agreements entered into after July 1, 2018, shall comply with this Chapter.

A wireless provider that has an existing agreement with the Village on the effective date of the Act may accept the rates, fees and terms that the Village makes available under this Chapter for the collocation of small wireless facilities or the installation of new utility poles for the collocation of small wireless facilities that are the subject of an application submitted two or more years after the effective date of the Act by notifying the Village that it opts to accept such rates, fees and terms. The existing agreement remains in effect, subject to applicable termination provisions, for the small wireless facilities the wireless provider has collocated on the Village's utility poles pursuant to applications submitted to the Village before the wireless provider provides such notice and exercises its option under this paragraph.

§106.08 ANNUAL RECURRING RATE.

A wireless provider shall pay to the Village an annual recurring rate to collocate a small wireless facility on a Village utility pole located in a right-of-way that equals (i) \$200 per year or (ii) the actual, direct and reasonable costs related to the wireless provider's use of space on the Village utility pole. If the Village has not billed the wireless provider actual and direct costs, the fee shall be \$200 payable on the first day after the first annual anniversary of the issuance of the permit or notice of intent to collocate, and on each annual anniversary date thereafter.

§106.09 ABANDONMENT.

A small wireless facility that is not operated for a continuous period of 12 months shall be considered abandoned. The owner of the facility shall remove the small wireless facility within 90 days after receipt of written notice from the Village notifying the wireless provider of the abandonment.

The notice shall be sent by certified or registered mail, return receipt requested, by the Village to the owner at the last known address of the wireless provider. If the small wireless facility is not removed within 90 days of such notice, the Village may remove or cause the removal of such facility pursuant to the terms of its pole attachment agreement for municipal utility poles or through whatever actions are provided for abatement of nuisances or by other law for removal and cost recovery.

A wireless provider shall provide written notice to the Village if it sells or transfers small wireless facilities within the jurisdiction of the Village. Such notice shall include the name and contact information of the new wireless provider.

§106.10 DISPUTE RESOLUTION.

The Circuit Court of Cook, or Will County depending on the site location that is subject to dispute, shall have exclusive jurisdiction to resolve all disputes arising under the Small Wireless Facilities Deployment Act. Pending resolution of a dispute concerning rates for collocation of small wireless facilities on municipal utility poles within the right-of-way, the Village shall allow the collocating person to collocate on its poles at annual rates of no more than \$200 per year per municipal utility pole, with rates to be determined upon final resolution of the dispute.

§106.11 INDEMNIFICATION.

A wireless provider shall indemnify and hold the Village harmless against any and all liability or loss from personal injury or property damage resulting from or arising out of, in whole or in part, the use or occupancy of the Village improvements or right-of-way associated with such improvements by the wireless provider or its employees, agents, or contractors arising out of the rights and privileges granted under this Chapter and the Act. A wireless provider has no obligation to indemnify or hold harmless against any liabilities and losses as may be due to or caused by the sole negligence of the Village or its employees or agents. A wireless provider shall further waive

any claims that they may have against the Village with respect to consequential, incidental, or special damages, however caused, based on the theory of liability.

§106.12 INSURANCE.

The wireless provider shall carry, at the wireless provider's own cost and expense, the following insurance:

- (i) property insurance for its property's replacement cost against all risks;
- (ii) workers' compensation insurance, as required by law; OR
- (iii) commercial general liability insurance with respect to its activities on the Village improvements or rights-of-way to afford minimum protection limits consistent with its requirements of other users of Village improvements or rights-of-way, including coverage for bodily injury and property damage.

The wireless provider shall include the Village as an additional insured on the commercial general liability policy and provide certification and documentation of inclusion of the Village in a commercial general liability policy prior to the collocation of any wireless facility.

A wireless provider may self-insure all or a portion of the insurance coverage and limit requirement required by the Village. A wireless provider that self-insures is not required, to the extent of the self-insurance, to comply with the requirement for the name of additional insureds under this Chapter. A wireless provider that elects to self-insure shall provide to the Village evidence sufficient to demonstrate its financial ability to self-insure the insurance coverage limits required by the Village.

§106.13 SEVERABILITY.

If any provision of this Chapter or application thereof to any person or circumstances is ruled unconstitutional or otherwise invalid, such invalidity shall not affect other provisions or applications of this Chapter that can be given effect without the invalid application or provision, and each invalid provision or invalid application of this Chapter is severable.

SECTION THREE: If any provision of this Ordinance or application thereof to any person or circumstance is ruled unconstitutional or otherwise invalid, such invalidity shall not affect other provisions or applications of this ordinance that can be given effect without the invalid application or provision, and each invalid provision or invalid application of this Ordinance is severable.

SECTION FOUR: Where the conditions imposed by any provisions of this Ordinance are more restrictive than comparable provisions imposed elsewhere in any other local law, ordinance, resolution, rule or regulation, the regulations of this Ordinance will govern.

SECTION FIVE: The Village Clerk shall publish this Ordinance in pamphlet form.

SECTION SIX: This Ordinance shall be in full force and effect from and after its passage, approval and publication in pamphlet form as provided by law.

PASSED THIS 17th day of July 2018.

AYES:

NAYS:

ABSENT:

APPROVED THIS 17th day of July 2018.

VILLAGE PRESIDENT

ATTEST:

VILLAGE CLERK

STATE OF ILLINOIS)
COUNTY OF COOK) SS
COUNTY OF WILL)

CERTIFICATE

I, KRISTIN A. THIRION, Village Clerk of the Village of Tinley Park, Counties of Cook and Will and State of Illinois, DO HEREBY CERTIFY that the foregoing is a true and correct copy of Ordinance No. ____, “AN ORDINANCE AMENDING TITLE IX ENTITLED “GENERAL REGULATIONS” AND CREATING CHAPTER 106 ENTITLED “SMALL WIRELESS FACILITIES” PERTAINING TO THE REGULATION OF SMALL WIRELESS FACILITIES,” which was adopted by the President and Board of Trustees of the Village of Tinley Park on July 17, 2018.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of the Village of Tinley Park this 17th day of July, 2018.

KRISTIN A. THIRION, VILLAGE CLERK

Public Act 100-0585, the Small Wireless Facilities Deployment Act (the Act), previously known as Senate Bill 1451, specifies how local authorities may regulate the attachment of small wireless facilities. Following is a compilation of frequently asked questions that the Illinois Municipal League (IML) anticipates regarding this Act.

What is a small wireless facility?

A small wireless facility, commonly known as a “small cell,” enables the transmission of data and wireless communications to and from a wireless device, such as a computer, cell phone or tablet. The Act states that these small wireless facilities are critical to delivering wireless access to advanced technology, broadband and 9-1-1 services to homes, businesses and schools in Illinois.

What does the Act do?

The Act provides the regulations and process for permitting and deploying small wireless facilities throughout Illinois. It specifies how local authorities may regulate the attachment of small wireless facilities on municipal utility poles or other structures.

What happens if our municipality does not adopt an ordinance or schedule of fees prior to two months after the effective date of the Act?

In the absence of an ordinance or agreement that makes available to wireless providers the rates, fees and terms for the attachment of small wireless facilities on municipal utility poles, wireless providers may attach small wireless facilities and install utility poles on their own accord, provided they comply with the requirements of the Act.

What do we do if we begin to receive applications to attach small wireless facilities on our municipal poles before we have adopted an ordinance or a fee schedule, pursuant to the Act?

Section 15(i)(4) of the Act provides that municipalities have two months following the effective date of the Act to adopt ordinances or provide agreements consistent with the terms of the Act, and thereafter, the terms of the Act will control in the absence of an ordinance or agreement. Permit applications received prior to August 1, 2018, would be acknowledged as received on the earlier of the effective date of the ordinance adopted by the municipality or August 1, 2018.

Our municipality has already adopted the IML Small Cell Antenna/Tower Right-of-Way Siting Ordinance and/or an ordinance establishing standards for the construction of facilities on rights-of-way. What do we do about those ordinances?

The municipality should consider leaving the prior IML Small Cell Antenna/Tower Right-of-Way Siting Ordinance in effect to support any existing installations, and adopting the new Model Small Wireless Facilities Deployment Ordinance for permit applications received after adoption of the new Model Small Wireless Facilities Deployment Ordinance. As to the ordinance establishing standards for the construction of facilities on rights-of-way, municipal officials should thoroughly review the ordinance with retained legal counsel or other qualified attorney and amend as necessary to ensure compliance with the Act.



Does the Act apply to requests for permits to locate on municipal property outside of the right-of-way?

The Act only requires that requests to locate on municipal property outside of the right-of-way be granted in a competitively neutral and non-discriminatory manner. If your municipality does not presently allow telecommunications carriers access to municipal property outside of the right-of-way, it need not do so.

If the community requires other right-of-way users to obtain separate permits for electric and cabling requirements for their use, are wireless providers subject to those separate permitting requirements?

Yes.

Where are the small wireless facilities permitted uses, pursuant to Section 15(c) of the Act?

Small wireless facilities are permitted uses in the right-of-way, and on property zoned exclusively for commercial or industrial use. On other property, zoning provisions apply, as do the Federal Communications Commission shot clock timelines for permitting of telecommunications facilities.

If another authority is running through the municipality, such as a county or state road/street, who has the jurisdiction to control or regulate the small wireless facilities in the right-of-way?

The unit of government that controls the right-of-way has the jurisdiction to regulate the small wireless facilities in that right-of-way.

Who can I contact if I have questions?

If you have any further questions, please feel welcome to contact:

Amelia Finch | Assistant Counsel
Illinois Municipal League
217.525.1220 phone | 217.525.7438 fax
afinch@iml.org

MUNICIPAL OFFICIALS SHOULD REVIEW THIS DOCUMENT WITH RETAINED LEGAL COUNSEL OR OTHER QUALIFIED ATTORNEY.



Interoffice Memo

Date: July 6, 2018

To: Community Development Committee

From: David Niemeyer, Village Manager *DM*

cc: Village Board
Pat Carr, Assistant Village Manager
Paula Wallrich, Interim Community Development Director
Patrick Connelly, Village Attorney

Subject: GovTemp Community Development Director

It is recommended that the Village renew the Professional Services Agreement with GovTemps that expires July 31, 2018 to fill the position of Interim Community Development Director providing for management and staffing coverage. Entering into this contract will allow the Community Development Department to continue to provide excellent service while the Village hires a new permanent director. The current agreement runs through July 31, 2018. The Village has previously utilized the services of GovTemps USA, LLC and has been pleased with their services and the staffing candidates they have offered. GovTemps will be paid \$95.62 per hour, however, the Interim Community Development Director (Paula Wallrich) will be paid \$68.30 per hour by GovTemps (this is a 2.5% increase from last year).

As you know, we recently hired Kimberly Clarke as Planning Manager with the intention of having her eventually take on the role of Community Development Director. At that time Paula would revert back to a 32 per hour week role at a different hourly rate than she had before she became Acting Director. Therefore, the current contract is written as only a 6 month contract, however there is the ability to extend this for 6 months if so desired.

EMPLOYEE LEASING AGREEMENT

THIS EMPLOYEE LEASING AGREEMENT (this "Agreement") is made this 1st day of August 2018 ("Effective Date") by and between **GOVTEMPSUSA, LLC**, an Illinois limited liability company ("GovTemps"), and **Village of Tinley Park, IL** (the "Municipality") (GovTemps and the Municipality may be referred to herein individually as "Party" and collectively as the "Parties")

RECITALS

The Municipality desires to lease certain employees of GovTemps to assist the Municipality in its operations and GovTemps desires to lease certain of its employees 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 GovTemps to provide, and GovTemps hereby agrees to supply to the Municipality, the personnel fully identified on **Exhibit A** hereto, hereinafter the "Worksite Employee." **Exhibit A** to this Agreement shall further identify the employment position and/or assignment ("Assignment") the Worksite Employee shall fill at the Municipality and shall further identify the base compensation for each 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 GovTemps and the Municipality. GovTemps shall have the sole authority to assign and/or remove the Worksite Employee, provided, however, that the Municipality may request, in writing, that GovTemps remove or reassign the Worksite Employee, such request shall not be unreasonably denied by GovTemps. The Parties hereto understand and acknowledge that the Worksite Employee shall be subject to the Municipality's day-to-day supervision. If the Worksite Employee is removed from the Municipality after consultation between the parties, then the Agreement shall be terminated.

Section 1.02. Independent Contractor. GovTemps and the Worksite Employee are and shall remain independent contractors, and not an employee, agent, partner of, or joint venture with, the Municipality. GovTemps and the Worksite Employee 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 GOVTEMPS AND MUNICIPALITY

Section 2.01. Payment of Wages. GovTemps shall timely pay the wages and related payroll taxes of the Worksite Employee from GovTemps own account in accordance with federal and Illinois law and GovTemps standard payroll practices. GovTemps shall withhold from such wages all applicable taxes and other deductions elected by the Worksite Employee. GovTemps shall timely forward all deductions to the appropriate recipient as required by law. The Municipality hereby acknowledges that GovTemps 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, GovTemps shall maintain and administer workers' compensation, safety and health programs. GovTemps shall maintain in effect workers' compensation coverage covering all Worksite Employee and complete and file all required workers' compensation forms and reports.

Section 2.03. Employee Benefits. At no time shall the Village be required to pay any amount in addition to the fees set forth in Section 3.01 of and Exhibit A to this Agreement, as amended. The Worksite Employee shall not be considered an employee of the Village and shall not be entitled to any of the various fringe benefits provided by the Village to its employees.

Section 2.04. Vacation, Sick and Personal Leave. The Worksite Employee shall not be entitled to any paid leave during his or her placement with the Village. The Village shall not be charged any fees for any time the Worksite Employee misses work, provided that the Village notifies GovTemps of such absence(s).

Section 2.05. Maintenance and Retention of Payroll and Benefit Records. GovTemps shall maintain complete records of all wages and benefits paid and personnel actions taken by GovTemps in connection with the Worksite Employee, shall retain control of such records at such GovTemps location as shall be determined solely by GovTemps, and shall make such records available as required by applicable federal, state or local laws.

Section 2.06. Other Obligations of GovTemps. GovTemps shall be responsible for compliance with any federal, state and local law that may apply to its Worksite Employee(s).

Section 2.07. Direction and Control. The Parties agree and acknowledge that 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 Municipality's supervisory and managerial employees.

Section 2.08. Obligations of the Municipality. As part of the employee leasing relationship, the Municipality hereby covenants, agrees and acknowledges:

(a) The Municipality shall comply with OSHA and all other health and safety laws, regulations, ordinances, directives, and rules applicable to the Worksite Employee or to his or her place of work. The Municipality shall provide and ensure use of all personal protective equipment as required by any federal, state or local law, regulation, ordinance, directive, or rule. GovTemps and GovTemps insurance carriers shall have the right to inspect the Municipality's premises, with the prior consent of the Municipality, to ensure that the Worksite Employee is not exposed to an unsafe work place. In no way shall GovTemps rights under this paragraph affect the Municipality's obligations to the Worksite Employee under applicable law or to GovTemps under this Agreement;

(b) With respect to the Worksite Employee, the Municipality shall comply with all applicable employment-related laws and regulations as may be applicable, including and, without limitation, 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;

(c) 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;

(d) The Municipality shall not have the right to have remove or reassign the Worksite Employee unless mutually agreed to in writing by GovTemps and the Municipality in accordance with Section 1.01;

(e) 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;

(f) The Municipality shall report to GovTemps 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 GovTemps shall follow the procedures and practices regarding injury claims and reporting, as determined by GovTemps. Upon receipt of notification from GovTemps or its insurance carrier that an injured Worksite Employee is able to return to work and perform "light duty," the Municipality may, but is not required to, make available an appropriate light duty work assignment for such Worksite Employee; and

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

SECTION 3 FEES PAYABLE TO GOVTEMPS

Section 3.01. Fees. The Municipality hereby agrees to pay GovTemps fees for the services provided under this Agreement in the amount of the base compensation as fully identified on **Exhibit A**, as amended. Fees shall not become due until the Worksite Employee is placed with the Municipality and actually begins working. Fees shall be paid for the actual days worked by the Worksite Employee.

Section 3.02. Increase in Fees. GovTemps 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. Following the close of each month during the term of this Agreement, GovTemps shall provide the Municipality a written invoice for the fees owed by the Municipality pursuant to this Agreement for the prior month. 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 GovTemps 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.

At all times during the term of this Agreement, GovTemps shall procure and maintain insurance to protect GovTemps from claims arising out of Commercial General Liability and Professional Liability, with minimum coverage in the amount of \$1,000,000 per occurrence and \$3,000,000 aggregate.

Section 4.02. Certificate of Insurance. Upon request, either party shall provide the other 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, GovTemps 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 Dates. This Agreement shall become effective on August 1, 2018 and shall continue in effect thereafter for a period of six (6) months (February 1, 2019) or until it is terminated in accordance with the remaining provisions of this Section 5. This Agreement may be extended for up to an additional six (6) months (July 31, 2019) with written agreement between the parties. For the purposes of the Agreement, the date on which this Agreement expires and/or is terminated shall be referred to as 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, GovTemps 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, GovTemps 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 5.04. Termination of Agreement to execute Temp-to-Hire Arrangement. At the end of the term of the agreement, as outlined in Section 5.01, the Municipality may hire the Employee as a regular employee of the Municipality. If the Municipality exercises this option, the sum of two weeks gross salary is payable to GovTemps within thirty (30) days of the regular employment date. If the Municipality does not exercise the Temp-to-Hire Arrangement by the end of the contract, as outlined in Section 5.01, it agrees not to extend an offer of employment to the Employee for two years after the conclusion of this agreement. If an offer is made within two years after the conclusion of this agreement, as outlined in Section 5.01, then the two weeks gross salary fee is payable to GovTemps within thirty (30) days of the permanent employment date.

SECTION 6 DISCLOSURE AND INDEMNIFICATION PROVISIONS

Section 6.01. Indemnification by GovTemps. GovTemps 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 GovTemps breach of its obligations under this Agreement, (b) related to the actions or conduct of GovTemps and its related business entities, their agents, representatives, and employees, including without limitation the Worksite Employee, (the "GovTemps Parties"), taken or not taken with respect to the Worksite Employee that relate to

events or incidents occurring prior to, during or subsequent to the term of this Agreement, and (c) arising from any act or omission on the part of GovTemps or any of the GovTemps Parties.

Section 6.02. Indemnification by the Municipality. The Municipality agrees to indemnify, defend and hold the GovTemps Parties harmless from and against all Losses (a) arising out of the Municipality's breach of its obligations under this Agreement, (b) 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 GovTemps Parties under this Section with respect to Losses arising out of events or incidents occurring before or after the term of this Agreement.

Section 6.03. Indemnification Procedures. The Party that is seeking indemnity (the "Indemnified Party") from the other Party (the "Indemnifying Party") pursuant to this Section 6, 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 6 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 6.04. Survival of Indemnification Provisions. The provisions of this Section 6 shall survive the expiration or other termination of this Agreement.

SECTION 7 ADDITIONAL PROVISIONS

Section 7.01. 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 3.01.

Section 7.02. Binding Effect. This Agreement shall inure to the benefit of and be binding upon the Parties and their respective heirs, successors, representatives and assigns. 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 7.03. 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 7.04. 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 7.05. Entire Agreement. This Agreement constitutes the entire agreement between the Parties regarding GovTemps 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 7.06. 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 7.07. 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 7.08. 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 GovTemps:

GOVTEMPSUSA, LLC
630 Dundee Road, Suite 130
Northbrook, Illinois 60062
Attention: Michael J. Earl
Telephone: 224-261-8366
E-Mail: mearl@govhrusa.com

If to the Municipality:

Village of Tinley Park
16250 S. Oak Park Avenue
Tinley Park, IL 60477
Attention: David Niemeyer
Telephone: (708) 444-5010
E-Mail: dniemeyer@tinleypark.org

Section 7.09. 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 7.10. 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 7.11. 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 7.12. 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, except as required by law. 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 7.13. 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.

GOVTEMPSUSA, LLC,
an Illinois limited liability company

By 
Name: Joellen C. Earl
Title: President/Co-owner

MUNICIPALITY

By _____
Name: _____
Title: _____

EXHIBIT A
Worksite Employee and Base Compensation

WORKSITE EMPLOYEE: Paula Wallrich

POSITION/ASSIGNMENT: Interim Community Development Director

TERM OF POSITION: August 1, 2018 – February 1, 2019

Please review section 5 of agreement for the complete terms of position. Agreement may be extended up to July 31, 2019 with written agreement of the parties.

BASE COMPENSATION: \$95.62 per hour. Estimated number of hours/week = 40. (\$143.43

= overtime rate for work in excess of 40 hours/week). Employee to be paid for only hours

worked. Hours worked shall be communicated via email to payroll@govtempusa.com by the

close of business on the Monday after the prior work week. The Municipality will be invoiced

every other week and payment may be remitted via check or ACH.

GOVTEMPUSA, INC.:

By: 

Date: July 6, 2018

MUNICIPALITY:

By: _____

Date: _____

This Exhibit A fully replaces all Exhibits A dated prior to the date of the Company's signature above.

EXHIBIT B

Not Applicable

**COMMENTS FROM
THE PUBLIC**

ADJOURNMENT