

## EMPLOYEE LEASING AGREEMENT

**THIS EMPLOYEE LEASING AGREEMENT** (this "Agreement") is made this 13<sup>th</sup> day of November 2017 ("Effective Date") by and between **GOVTEMPUSA, LLC**, an Illinois limited liability company ("GovTemp"), and **Village of Tinley Park, IL** (the "Municipality") (GovTemp and the Municipality may be referred to herein individually as "Party" and collectively as the "Parties")

### RECITALS

The Municipality desires to lease certain employees of GovTemp to assist the Municipality in its operations and GovTemp 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 GovTemp to provide, and GovTemp 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 GovTemp and the Municipality. GovTemp shall have the sole authority to assign and/or remove the Worksite Employee, provided, however, that the Municipality may request, in writing, that GovTemp remove or reassign the Worksite Employee, such request shall not be unreasonably denied by GovTemp. 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.** GovTemp and the Worksite Employee are and shall remain independent contractors, and not an employee, agent, partner of, or joint venture with, the Municipality. GovTemp 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 GOVTEMP AND MUNICIPALITY**

**Section 2.01. Payment of Wages.** GovTemp shall timely pay the wages and related payroll taxes of the Worksite Employee from GovTemp's own account in accordance with federal and Illinois law and GovTemp's standard payroll practices. GovTemp shall withhold from such wages all applicable taxes and other deductions elected by the Worksite Employee. GovTemp shall timely forward all deductions to the appropriate recipient as required by law. The Municipality hereby acknowledges that GovTemp may engage a financial entity to maintain its financing and record keeping services, which may include the payment of wages and related payroll taxes in accordance with this Section 2.01. The Municipality agrees to cooperate with any such financial entity to ensure timely payment of (i) wages and related payroll taxes pursuant to this Section 2.01, and (ii) Fees pursuant to Section 3.03.

**Section 2.02. Workers' Compensation.** To the extent required by applicable law, GovTemp shall maintain and administer workers' compensation, safety and health programs. GovTemp shall maintain in effect workers' compensation coverage covering 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.** GovTemp shall maintain complete records of all wages and benefits paid and personnel actions taken by GovTemp in connection with the Worksite Employee, shall retain control of such records at such GovTemp location as shall be determined solely by GovTemp, and shall make such records available as required by applicable federal, state or local laws.

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

**Section 2.07. 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. GovTemp and GovTemp's 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 GovTemp's rights under this paragraph affect the Municipality's obligations to the Worksite Employee under applicable law or to GovTemp 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 GovTemp 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 GovTemp any injury to any Worksite Employee of which it has knowledge within twenty-four (24) hours of acquiring such knowledge. If a Worksite Employee is injured in the course of performing services for the Municipality, the Municipality and GovTemp shall follow the procedures and practices regarding injury claims and reporting, as determined by GovTemp. Upon receipt of notification from GovTemp or its insurance carrier that an injured Worksite Employee is able to return to work and perform "light duty," the Municipality 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 GovTemp within twenty-four (24) hours following notification of said injury by employee or employee's representative.

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

**Section 3.01. Fees.** The Municipality hereby agrees to pay GovTemp fees for the services provided under this Agreement 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.** GovTemp may increase fees to the extent and equal to any mandated tax increases, e.g. FICA, FUTA, State Unemployment taxes when they become effective.

**Section 3.03. Payment Method.** Following the close of each month during the term of this Agreement, GovTemp 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 GovTemp to an account or lockbox as designated on the invoice.

### **SECTION 4 INSURANCE**

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

At all times during the term of this Agreement, GovTemp shall procure and maintain insurance to protect GovTemp 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, GovTemp and the Municipality against liability for bodily injury, death and property damage.

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

**Section 5.01. Effective and Termination Dates.** This Agreement shall become effective on November 13, 2017 and shall continue in effect for 8 weeks, through December 22, 2017 or until it is terminated in accordance with the remaining provisions of this Section 5. This Agreement may be extended up to 3 months (March 22, 2018) with written agreement between 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, GovTemp may give the Municipality notice of its intent to terminate this Agreement for such failure and if such failure is remedied within ten (10) days, the notice shall be of no further effect. If such failure is not remedied within the ten (10) day period, GovTemp shall have the right to terminate the Agreement upon expiration of such remedy period.

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

**Section 5.04. 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 GovTempsUSA, LLC 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 GovTempsUSA, LLC within thirty (30) days of the permanent employment date.

## **SECTION 6 DISCLOSURE AND INDEMNIFICATION PROVISIONS**

**Section 6.01. Indemnification by GovTemp.** GovTemp agrees to indemnify, defend and hold the Municipality and its related entities or their agents, representatives or employees (the "Municipality Parties") harmless from and against all claims, liabilities, damages, attorney's fees, costs and expenses ("Losses") (a) arising out of GovTemp's breach of its obligations under this Agreement, (b) related to the actions or conduct of GovTemp and its related business entities, their agents, representatives, and employees, including without limitation the Worksite Employee,

(the "GovTemp 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 GovTemp or any of the GovTemp Parties.

**Section 6.02. Indemnification by the Municipality.** The Municipality agrees to indemnify, defend and hold the GovTemp Parties harmless from and against all Losses (a) arising out of the Municipality's breach of its obligations under this Agreement, (b) arising from any act or omission on the part of the Municipality or any of the Municipality Parties. Notwithstanding the foregoing, the Municipality shall have no obligations to the GovTemp Parties under this Section with respect to Losses arising out of events or incidents occurring before or after the term of this Agreement.

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

**Section 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 GovTemp:

GOVTEMPUSA, LLC  
630 Dundee Road, Suite 130  
Northbrook, Illinois 60062  
Attention: Michael J. Earl  
Telephone: 847-224-8366  
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]*

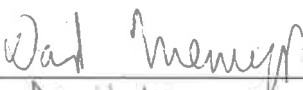


IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be duly executed as of the day and year first above written.

GOVTEMPUSA, LLC,  
an Illinois limited liability company

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

MUNICIPALITY

By   
Name: David Niemeyer  
Title: Village Manager

**EXHIBIT A**  
**Worksite Employee and Base Compensation**

WORKSITE EMPLOYEE: Samantha Brunell

POSITION/ASSIGNMENT: Interim Assistant Human Resources Director

Village of Tinley Park, IL

TERM OF POSITION: Extension: November 13 – December 22, 2017

Agreement may be extended for up to 3 months with agreement between parties.

Please review section 5 of this Agreement for the complete terms of position.

BASE COMPENSATION: \$56 per hour. Estimated 30 hours per week. Employee will be paid for hours worked only. Overtime rate \$84 per hour for hours worked over 40 per week. 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.:

MUNICIPALITY:

By: 

By: 

Date: 11/13/2017

Date: 11-16-17

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

**EXHIBIT B**

Not Applicable