INDEPENDENT CONTRACTOR AGREEMENT
TO PROVIDE PROFESSIONAL SERVICES AS INTERIM PUBLIC WORKS DIRECTOR AND DEPARTMENT SERVICES FOR THE VILLAGE OF TINLEY PARK

This Professional Services Independent Contractor Agreement (hereinafter referred to as the “Agreement”) is made this __ day of August, 2015, by and between the Village of Tinley Park, Illinois, (hereinafter referred to as the “VILLAGE”) and WRB, LLC (hereinafter referred to as “WRB”). (The VILLAGE and WRB are sometimes referred to herein individually as “Party” or collectively as the “Parties.”).

1. DEFINITION OF WRB. As used in this Agreement, WRB shall be construed to include all of WRB’s officers, directors, members, managers, employees and agents.

2. SERVICES. WRB agrees to provide professional services as Interim Public Works Director and related services as described in EXHIBIT A to this Agreement. The performance of the services by WRB under this Agreement shall not be construed as creating any employment relationship or employment contract or partnership or joint venture relationship between the VILLAGE and WRB. Professional Services include:

A. Operational Assessment and Performance Audit of Public Work Core Service Areas.

B. Administration of the Public Works Department and Execution of the Department's Operating Plan.

C. Organizational Recommendation for the Department.

D. Employee and Workforce Performance and Morale Development.

E. Recruitment of the Permanent Public Works Director. Phase two work element and subject to specific authorization.

F. WRB agrees to provide any additional work as directed by the Village Manager and authorized separately by the Board of Trustees, and subject to separate authorization.

3. TERM. The Term of the agreement shall commence on August __, 2015 and shall be continuous until work is completed. The professional services work will coincide with the needs of the VILLAGE to address issues in the Public Works Department. In accordance with Exhibit A to this Agreement, the Village Manager shall provide a three-week notice of project completion to permit project assignment closeout and any final report preparation.
4. **COMPENSATION.** The compensation will be for the completion of the Professional Services elements as described in Exhibit A to this agreement. Additional work elements as may be requested by the Village will be priced subject to the approval of the parties.

   A. **Mechanism of Payment.** WRB shall provide a monthly invoice to the Village Manager or his designee. The VILLAGE shall make payment to WRB within thirty (30) days thereafter, subject to the approval of the rules governing the VILLAGE.

   No deductions of any kind whatsoever shall be made by the VILLAGE to any compensation paid to WRB for any and all applicable federal, state, local and other taxes and deductions, which shall remain the sole and exclusive obligation of WRB as an independent contractor. WRB, its directors, officers, members, managers, employees or agents shall not be entitled to receive or to participate in any employee benefits, benefit programs or retirement plans available to full-time or part-time VILLAGE employees.

5. **INDEPENDENT CONTRACTOR STATUS.** WRB is retained by the VILLAGE only for the purposes and to the extent set forth in this Agreement, and WRB’s relation to the VILLAGE shall, during the term of this Agreement and period of its services hereunder, be that of an independent contractor. WRB shall be free to dispose of such portion of its entire time, energy and skill during regular business hours when WRB is not obligated to devote time and services hereunder to the VILLAGE, in such manner as WRB sees fit and to such persons, firms or corporations as WRB deems advisable. It is acknowledged that at all times WRB is separate and independent from the VILLAGE and that WRB will utilize a high level of skill necessary to perform the services under this Agreement.

   A. **Not an Employee.** WRB shall not be considered as having an employee status, nor shall the VILLAGE withhold any sums for the payment of income taxes or FICA taxes, nor shall WRB be entitled to participate in any plans, arrangements or distributions by the VILLAGE pertaining to or in connection with any pension or retirement plans, or any other benefits for the regular full-time or part-time employees of the VILLAGE. As an independent contractor, it is the responsibility of WRB to file all necessary tax returns (federal, state, county and local) and to pay all income tax, social security, and any and all other taxes due as an independent contractor in its profession. As an independent contractor, WRB agrees that it is ineligible to file a claim for unemployment compensation benefits or for workers compensation benefits against the VILLAGE and agrees not to file such claims in the event this Agreement is terminated. WRB agrees to assume all risk of death, illness and injury relative to performing all services under this Agreement. WRB understands and agrees that, as an independent contractor, it is not an employee of the VILLAGE for any purposes of any kind and all state, federal and county laws or regulations that apply to or provide benefits or protections to employees do not apply to it, including, but not limited to, the application of the Fair Labors Standards Act minimum wage and overtime payments, Federal Insurance Contribution Act, the Social Security Act, the
Federal Unemployment Tax Act and the Worker’s Compensation Act (820 ILCS 305/1, et seq.).

B. **No Insurance Provided by System.** The VILLAGE will not provide any form of insurance coverage, including but not limited to health, worker’s compensation, professional liability insurance or other employee benefits for or on behalf of WRB.

6. **INDEMNIFICATION.** As a material inducement for the VILLAGE to enter into this Agreement, WRB agrees to defend, indemnify and hold harmless the VILLAGE, its representatives, officers, trustees, agents, and employees from and against any and all claims, actions, suits, damages, costs, expenses and liabilities, including the reasonable fees and expenses of their attorneys, expert witnesses and consultants, court costs and fines, asserted against them or sought to be imposed upon them, individually, jointly or severally, and which arise directly or indirectly out of or in connection in any way with WRB’s performance of the terms of this Agreement, except to the extent that those claims, actions, suits, damages, costs, expenses and liabilities arise from the sole negligence of the VILLAGE, its representatives, officers, trustees, agents and employees.

The scope of WRB’s indemnification shall include, but is not limited to:

1. Any negligent, tortuous or wrongful act or omission of the WRB, its officers, agents, employees, contractors or subcontractors, resulting in personal injury, bodily injury, sickness or death to any person, loss or damage of any kind to the property of any person, including WRB, its officers, agents employees, licensees and invitees, or damage to or loss of other intangible property rights or personal rights, including but not limited to libel, slander and invasion of privacy; and

2. Loss or damage of any kind resulting from the WRB’s failure to comply with any provision of this Agreement, or of any federal, state or local law or regulation applicable to the WRB.

7. **INSURANCE.** As part of the indemnification required by this Agreement, but without limiting the same, WRB agrees to carry, during the term of this Agreement, at its expense, public liability insurance, including, but not limited to coverage for bodily injury, death, and property damage written on the comprehensive form, in the amount of $1,000,000.00 per occurrence and $2,000,000.00 aggregate. WRB shall furnish evidence of such insurance prior to the effective date of this Agreement, in the form of a Certificate of Insurance that names the VILLAGE and its officers, trustees, agents and employees as additional insured’s. The VILLAGE shall have the right to approve the coverage and carrier, which approval shall not be unreasonably withheld.

WRB’s policy or policies of insurance shall specifically recognize and cover the WRB’s indemnification obligations under this Agreement, and shall contain cross-liability endorsements. Said insurance shall provide that the insurance provided by WRB shall be primary and that any provision of any contract of insurance or other risk protection
benefit or self-insurance policy purchased or in effect or enacted by the VILLAGE and any other insurance or benefit of the VILLAGE shall be in excess of the Contractor’s insurance.

All Certificate(s) of Insurance shall contain the following endorsement:

“Should any of the above-described policies be canceled before the expiration date thereof, the issuing company shall serve 30 days prior written notice to the Village of Tinley Park.”

In the event of the cancellation of any insurance policy required herein, or upon WRB’s failure to procure said insurance, the VILLAGE shall have the right to terminate this Agreement.

8. **EQUIPMENT.** The VILLAGE will provide an office space and any equipment (e.g., computers), and clerical support to WRB to the extent that it is presently available.

9. **CONFIDENTIALITY.** WRB agrees to maintain the confidentiality of all VILLAGE information and documents received or obtained or learned as part of attending VILLAGE meetings and/or executive sessions or in performing its duties under this Agreement, unless specifically directed to release such information or documents by the VILLAGE or a court order or government regulatory agency order. WRB agrees that all conversations by attendees of and any information or documents reviewed or discussed in any executive session are confidential and shall not be disclosed or released by WRB, unless specifically directed to release such information or documents by the VILLAGE, a court order or government regulatory agency order. WRB shall faithfully adhere to the requirements of this Agreement and the professional ethical principles applicable hereto, including, but limited to, the ICMA Code of Ethics, and shall avoid all personal acts that might injure the reputation of the VILLAGE or undermine the business transactions and other operations of the VILLAGE.

10. **WAIVER AND ASSUMPTION OF LIABILITY.** WRB assumes all risks and liability for personal injuries or illness of any kind or death that might occur while performing any services or acting under this Agreement. WRB assumes all risks, liability and responsibility for its personal property while performing any services under this Agreement. WRB agrees to waive any claims or causes of action of any kind against the VILLAGE, except for non-payment for actual services rendered under this Agreement.

11. **APPLICABLE LAW.** The statutes and common law of the State of Illinois shall govern the interpretation, validity, enforcement and performance of the terms of this Agreement. The Parties agree that, for the purpose of any litigation or proceeding brought with respect to this Agreement and its enforcement, venue shall be in the Circuit Court of Cook or Will County, Illinois, as determined by the VILLAGE and the Parties agree to voluntarily submit to the jurisdiction of such court for the purpose of any such litigation or proceeding.
12. **ASSIGNMENT.** This Agreement may not be assigned, transferred or conveyed by WRB without the prior written consent of the VILLAGE.

13. **NOTICES.** All written notices of any kind to be given or delivered under this Agreement shall be deemed to have been properly given if (a) delivered by hand, (b) delivered by a nationally recognized overnight courier service, or (c) sent by registered or certified United States Mail, return receipt requested and first class postage prepaid. Such notices shall be sent to the Parties at their respective addresses as follows:

If to the VILLAGE:
Mr. David Niemeyer, Village Manager
Village of Tinley Park
16250 So. Oak Park Ave.
Tinley Park, Illinois 60477

With a copy to:
Acting Mayor David G. Seaman
Village of Tinley Park
16250 So. Oak Park Ave.
Tinley Park, Illinois 60477

If to WRB:
William Balling
412 S. Prindle Avenue
Arlington Heights, IL 60004

14. **AUTHORITY.** This Agreement shall be in full force and effect, and legally binding, after it is signed by the duly authorized officer of each party. Each of the signatories to this Agreement are the duly authorized representatives of their respective entity and each such person has signed this Agreement pursuant to the authority duly granted to him or her by the authorities of said entity, who have acted by motion or approved a resolution (in the VILLAGE’s case, at an open public meeting) that authorized and directed the representatives to sign this Agreement. This Agreement shall be binding upon and shall inure to the benefit of the parties agreeing hereto and to their successor corporations, officers, officials, trustees, successors in office, heirs, representatives, and assigns.

15. **EFFECTIVE DATE.** This Agreement shall become effective on the date the last signatory signs this Agreement.
VILLAGE OF TINLEY PARK, ILLINOIS

By: 

David G. Seaman
Acting Mayor

Date: August 4, 2015

WRB, LLC

By: 

William Balling
Managing Director, WRB, LLC

Date: 4 August 2015
EHBBIT A

Work Plan for the Public Works Department

I have identified five (5) key work elements with important end dates for your consideration. The work plan itself will proceed with concurrent work plan tasks, as all of the issues I have identified are very important to Tinley Park. The tasks include:

1. Operational Assessment and Performance Audit of Public Works Core Service Areas (timeline 5-7 months starting August 10, 2015 with monthly recommendations on areas that need improvement or change). I understand that the Village has retained an independent Consultant to address the recently publicized water meter issue. While this is an important short term objective, WRB, LLC will play a supporting role to ensure that the selected technical Consultant has full access to information and records to complete their work and to assist the Village Manager as needed.

WRB, LLC will be investigating all core service programs to ensure that the standards of service delivery match the highest services levels and expectations of the community. While I would look for your direction on the most immediate priorities, as a general rule, recommendations that impact the development of the FY 2016-2017 budget should receive immediate attention. The assessment will include the assessment of performance metrics and performance achievement, the identification and evaluation of informal operating practices and their alignment to Village-wide practices, evaluation of shared services both in place and those to be considered as future opportunities, and interdepartmental relations.

2. Administration of the Department and Execution of the Department's Operating Plan (timeline August 10, 2015 through duration of the engagement). This area includes making sure the "work" of Public Works both routine and emergency deployment, is well executed. I will be engaging all supervisory personnel in the Department to participate in the management of the Department. This will also provide me a direct opportunity to assess competencies.

3. Organizational Recommendation (timeline August 10, 2015 to November 1, 2015). Since this work element may have budget impact, its completion should be no later than mid-November, to give you the opportunity to consider and evaluate the
recommendations. Several items will be considered, including recommended organizational and staffing plan, the recommended structure of delivering professional Engineering Services to the Village, recommendations on labor allocations and task assignments.

4. Employee and Workforce Performance and Morale (timeline August 10, 2015 through the duration of the engagement). This element is a continuous work effort closely aligned with department management. It is, however, more of a deep dive into employee values, self-worth, motivation, and alignment of the work environment to the collective bargaining agreement(s). In short, this is a project to restore the belief of workers in the Village and the importance of their productive labors to the Village's success. This is an area where I am particularly strong.

5. Recruitment of Permanent Director (timeline December 2015 through May 2016). I am prepared to lead the recruitment effort for the next Public Works Director in Tinley Park. My recently completed assignment as Interim City Administrator in Prospect Heights is a good example of recruiting while serving as Interim Administrator. This allowed me to understand clearly the expectations and scope of operations, and was a tremendous asset to myself and the City in recruiting the precise skill set needed for success in Prospect Heights. I suspect the same will hold true for Tinley Park. This is a phase two work element and subject to specific authorization from the Village.

Outline for Commercial Terms

The Tinley Park engagement is complex and under a tight timeline, but both are well within my capabilities to execute and perform the required tasks. As with other projects, I run out of hours before I run out of work, and while I will be heavily relying on Department personnel to support me, some additional support is necessary; Associate Consulting time will also be required to help in the project work elements. At this point I believe a target budget for additional Associate Consulting services would be the most effective approach. William Balling will of course continue to serve as Principal Consultant and as Interim Public Works Director.

Basically I would like to offer my services to the Village from August 1, 2015 through the duration of the engagement at my billing rate of $185 per hour. My overhead is low at 12%, which is added to all billed hours of work. While I may be in the Village for more hours, with a few exceptions (newly identified special projects, long duration emergency event, etc.) my weekly fee would be capped based on 25 hours. This provides the Village with an element of control and predictability. I also recommend that the estimated budget authorization for the Associate Consultant to provide technical assistance to the Work Plan, and to assist in the Executive Recruitment of the permanent Public Works Director. The Associate Consultant would be billed at a rate of $110 per hour with a $25,000 additional allowance for technical support for engagement tasks 1 through 4 and $10,000 to support work element #5.

Principal Consultant tasks 1-5 $185 per hour with a 25 hour billing cap weekly.*
Associate Consultant support tasks 1-4 $110 per hour as needed, $25,000 cap.
Associate Consultant support tasks 5 $110 per hour as needed, $10,000 cap. Note, this is a phase
two work element and subject to specific authorization of the Village.

*For major emergency events (wind storm, flood, snow event) which exceed 25 hours per week
and continuous on site management is required, and for additional work not contemplated in
tasks 1-5, additional billing is permitted with the pre-approval authorization of the Village
Manager.

All hourly charges are subject to the WRB, LLC overhead charge of 12% of hours billed.
Transportation to and from the Village is not charged and not included in the billing. The
engagement will be continuing until project completion. The Village Manager shall provide a
three-week notice of project completion to permit project assignment closeout and any final
report preparation.

Submitted by:

William R. Balling
Managing Director
WRB, LLC