

Village of Mukwonago
Notice of Meeting and Agenda

SPECIAL VILLAGE BOARD MEETING
Wednesday, June 1, 2022

Time: **6:30 pm**

Place: **Mukwonago Municipal Building, 440 River Crest Ct., Mukwonago, WI 53149**

This meeting will begin immediately following the Committee of the Whole.

1. Call To Order

2. Roll Call

3. New Business

- 3.1 Discussion and possible action to approve a Developer Guarantee Agreement between the Village of Mukwonago and Hill Court Partners Reload LLC.

[Developer Guaranty Agreement \(LKW 5-25-22\) \(15011256\).docx](#)

- 3.2 Approval of President Winchowky appointment of James Decker to the vacant remaining position of Village Trustee expiring April 2023.

- 3.3 Discussion and possible action to approve a Service Agreement for managed IT Services with Velocity Solutions.

[1SR4528-Service Agreement with IT Contractor Velocity Solutions REDLINED.docx](#)

[1SR4528-Service Agreement with IT Contractor Velocity Solutions.docx](#)

4. Adjournment

It is possible that a quorum of, members of other governmental bodies of the municipality may be in attendance at the above stated meeting to gather information. No action will be taken by any governmental body at the above stated meeting other than the governmental body specifically referred to above in this notice. Please note, upon reasonable notice, efforts will be made to accommodate the needs of individuals with disabilities through appropriate aids and services. For additional information or to request this service, contact the Municipal Clerk's Office, (262) 363-6420.

DEVELOPER GUARANTY AGREEMENT

This Developer Guaranty Agreement (the “Agreement”) Agreement is made and entered into this _____ day of _____, 2022 (the “Effective Date”), by and between the **VILLAGE OF MUKWONAGO**, a Wisconsin municipal corporation (hereinafter referred to as the “Village”) and **HILL COURT PARTNERS RELOAD, LLC**, and its successors and assigns, with its principal office and place of business located at 3885 N. Brookfield Road, Suite 200, Brookfield, WI 54045, (hereinafter referred to as “Developer”).

R E C I T A L S

WHEREAS, the Village and Developer have entered into a Post Closing Agreement January 21, 2022 and recorded with the Walworth County Register of Deeds on January 24, 2022 as Document No. 1055216 (“Closing Agreement”) for the Developer’s purchase of approximately 15.564 acres of vacant land which is a part of the parcel known as Lot 2, Certified Survey Map No. 4936, excluding Lot 1 of Certified Survey Map No. 4993 (the “Property”), a copy of which is attached hereto and incorporated herein as **Exhibit A**; and

WHEREAS, the Property is part of an industrial park (the “Industrial Park”); and

WHEREAS, Pursuant to Section 66.1105, Wis. Stat. (the “Tax Increment Law”), the Village has created Tax Increment District No. 5 (the “District”) and approved a project plan for redevelopment within the District (the “TID Project Plan”). The boundaries of the District include all of the Industrial Park, including the Property; and

WHEREAS, Developer has acquired the Property subject to the Closing Agreement and Developer intends to construct a building and other improvements on the Property (collectively the “Facility”) which Developer intends to use to lease to other tenants or sell. A preliminary site plan showing projected future development of the Property is attached hereto as **Exhibit B** (the “Preliminary Development Plan”), which is consistent with the current zoning of the Property. The Preliminary Development Plan is also consistent with the TID Project Plan; and

WHEREAS, the projected aggregate assessed valuation for Property, when fully developed, is anticipated to be at least \$8,500,000; and

WHEREAS, the District will provide reimbursement to the Village for the acquisition costs of the Industrial Park and the Village’s debt service expense for the public infrastructure to serve the Industrial Park; and

WHEREAS, the parties acknowledge that the Developer’s development of the Property was a material inducement for the Village in acquiring the Property and conveying it to the Developer; and

WHEREAS, the construction of the Facility would not occur without the financial assistance provided herein; and

WHEREAS, the Village, pursuant to Village Board action dated _____, 2022, has approved the terms of this Agreement and authorized the execution of this Agreement by the proper Village officers on the Village's behalf; and

WHEREAS, it is anticipated that construction of the Facility will be completed and be ready for occupancy by December 31, 2023; and

WHEREAS, it is now necessary that the Developer and the Village enter into this Agreement to provide for the manner and method by which the Property will be developed.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties do hereby covenant and agree as follows:

1. Responsibilities of the Village:

1.1. The Village has designed and constructed a roadway to serve the Property. Additionally, the Village agrees to provide sanitary sewer and water mains to the lot line of the Property. The Village further has constructed a storm water management facility to service a portion of the Property and the balance of the Industrial Park, in accordance with the Ordinances of the Village of Mukwonago, as well as applicable State of Wisconsin Administrative Code and Wisconsin Statutes. Such storm water management facility is located on property in the Industrial Park other than the Property. The Property will be subject to a Storm Water Maintenance Agreement in the standard form utilized by the Village of Mukwonago for the portion of the property utilizing the Village's storm water pond. The Developer shall be responsible for constructing storm water BMPs to serve the balance of the property being acquired by Developer at the Developer's request.

1.2. The Village has obtained from the Department of Transportation ("DOT") access approval to State Highway 83 for the Property. The Village has completed construction of a public road from State Highway 83 to the Property with access to the Property at a location as shown on the certified survey map set forth on Exhibit A, and as designated by the State of Wisconsin Department of Transportation (the "Public Road"). The Developer shall be entitled to use the Public Road for construction purposes.

1.3. The Village has provided public water and sanitary sewer infrastructure to the Property line of the Property.

2. Responsibilities of the Developer: Subject to satisfaction of the conditions set forth in this Agreement, Developer shall perform the following:

2.1. Developer shall be responsible for the complete civil design for all site work contained within the Property.

2.2. Developer agrees, subject to unanticipated delays, delays by the Village and force majeure, to promptly commence, diligently pursue and complete the construction of the Facility on the Property such that the total assessed value for the Property shall, effective as of January 1 of the year following completion of construction of the Facility (the "Assessment Date"), be not less than \$8,500,000.00 (the "Guaranteed Tax Assessed Value"). The failure of the Developer to achieve the

Guaranteed Tax Assessed Value by the Assessment Date and thereafter maintain that value, for the balance of the term of this Agreement shall allow the Village to collect the shortfall pursuant to the guaranties referenced in this Agreement, which Guaranty Payment (as hereinafter defined) shall be deemed indebtedness of Developer to the Village.

2.3. Developer warrants and represents that the Property shall be owned by entities that are not exempt from real estate taxes, and that the Guaranteed Tax Assessed Value and the Guaranty Payment shall be maintained until the Termination Date. It shall be a further condition of this Agreement that ownership or occupancy of any portion of the Property may not be transferred to an entity which is exempt from real estate taxes without the prior written consent of the Village, which consent may be conditioned upon the execution by such new owner or occupant of an agreement to make payments in lieu of taxes in an amount of the then-existing non-exempt property tax assessment, multiplied by the applicable tax rate for the Village of Mukwonago. These obligations shall survive and continue until the Termination Date. In the event Developer receives an exemption from general real estate taxes prior to the Termination Date, the Village may exercise its right to require the Developer to make the Guaranty Payments as provided for under this Agreement.

2.4. Subject to force majeure, unanticipated delays, and delays caused by the Village, failure by the Developer to cause substantial and material completion of the Facility to occur pursuant to the terms, conditions and limitations of this Agreement and to fulfill its obligations, conditions, agreements or covenants under this Agreement shall constitute an event of default unless Developer makes the Guaranty Payments provided hereunder. Notwithstanding the foregoing, the Developer acknowledges that a worldwide pandemic related to the Novel Coronavirus, a/k/a COVID 19, exists at the time of the execution of this Agreement. The parties further acknowledge that the existence of said pandemic shall not be considered a force majeure in and of itself unless there is an order issued by any governmental entity with jurisdiction which would directly prevent the performance of any of the terms of this Agreement.

2.5. Guaranty Payments. In the event an event of default occurs on account of the failure to pay real estate taxes based upon the Guaranteed Tax Assessed Value for any calendar year commencing on or after the Assessment Date, then, for the calendar year in which such event occurs, the Developer shall pay the Village an amount equal to the difference between the net real estate taxes from all taxing jurisdictions that would be payable based on the Guaranteed Tax Assessed Value and the actual real estate taxes due for such calendar year (the “Guaranty Payment”). If applicable, the Guaranty Payment shall be due on June 20th in the year following the applicable tax year, commencing in the year of the Assessment Date (i.e. if construction is completed December 31, 2023, then the Assessment Date shall be January 1, 2024 and the Guaranty Payment, if applicable, shall be June 20, 2025) and shall be paid in lieu of all other taxes for such year. In the event that Developer fails to make one or more Guaranty Payments described herein, the parties acknowledge that the Village shall have the right, with twenty-one (21) days prior written notice, to impose special assessments or charges for any amount to which it is entitled by virtue of this Agreement and otherwise consistent with the special assessment statute, Wisconsin Statute Section 66.0701, et. seq. or to draw on the Line of Credit (if available), but not both. Developer’s obligation to make Guaranty Payments hereunder shall terminate on the Termination Date.

2.6. Special Assessments. Should the Village’s right to any special assessments or charges arise under Section 2.5 above, special assessment rights hereunder may be exercised pursuant to this

paragraph on the Property without a hearing. Developer does hereby waive hearing on such special assessment and agrees that an assessment to cover the Village's lost tax revenue is reasonable and benefits the Property. Such special assessments or charges shall be collected in the next succeeding tax roll or as other special assessments or special charges may be. This paragraph constitutes Developer's waiver of notice and its consent to the special assessment and special charges which may be required by law to the extent of an amount equal to the then-remaining balance of any shortfall on the Guaranty Payments due under this Agreement.

2.7. The Developer agrees to work in conjunction with the Village to obtain the building use, site and architecture approvals with the Village as well as access to the storm water management facility located on property in the Industrial Park other than the Property. Developer agrees to be responsible for obtaining approval from the State DSPS for its building plans, as well as the DNR, and any required local permit submissions. Developer acknowledges that the Village's approval of this document does not necessarily indicate that other Village bodies with jurisdiction will necessarily approve the use, site and architecture of the site.

3. The parties acknowledge that the special assessment procedure noted herein is not the exclusive method of enforcement of the obligations of this Agreement, and that the Village shall be entitled to pursue those remedies which may be available to it according to law.

4. Term. The term of this Agreement shall commence upon its execution and shall continue until the Termination Date. This Agreement shall run with the land and be binding upon the successors and assigns of the parties hereto. The "Termination Date" shall be the date that the Village's debt for the acquisition of the Property and the construction of the road and utilities to service the Property is paid in full. Paragraphs 9 and 10 shall survive the termination of this Agreement.

5. Assignment. The Developer shall be entitled to assign this Agreement to any party assuming the Developer's rights and obligations under the Purchase Agreement or any subsequent owner of the Property.

6. Default by Developer. Failure of the Developer to observe or perform any covenant, condition, obligation or agreement on its part to be observed or performed under this Agreement within thirty (30) days after receipt of written notice of default from the Village specifying such default shall be an event of default, provided that is such default cannot be cured within such thirty (30) day period, such thirty (30) period shall be extended to allow for such cure provided that Developer commences the cure within such thirty (30) day period and diligently pursues the same. In the event that the default is such that immediate harm may result from such default, then the Developer shall be given five (5) days written notice to cure such default, provided that is such default cannot be cured within such five (5) day period, such five (5) period shall be extended to allow for such cure provided that Developer commences the cure within such five (5) day period and diligently pursues the same.

7. Remedies of Default. Whenever an event of default referred to herein occurs and is continuing, the Village may take any one or more of the following actions:

- (i) The Village may suspend its performance under this Agreement until it receives assurances from the Developer, deemed reasonably adequate by the Village,

that the Developer will cure its default and continue its performance of this Agreement;

- (ii) The Village may take any action, including legal or administrative action in law or equity, which may reasonably be necessary or desirable to enforce performance and the observance of the obligations hereunder.

These remedies shall not be deemed to be exclusive and the Village shall have the right to pursue all rights or remedies available to it under applicable Wisconsin law. No delay or omission in pursuing any rights in the event of a default shall impair such right or power or shall be construed to be a waiver thereof. Such rights may be exercised from time to time as may be deemed expedient by the Village.

8. Enforcement Costs. Whenever an event of default by the Developer occurs and continues beyond the applicable cure period, and the Village shall employ attorneys or incur other expenses for the collection of payments due or to become due, or for the enforcement or performance or observance of any obligations or agreements on the part of the Developer herein contained, the Developer agrees it shall, on demand thereof, pay the Village the reasonable fees of such attorneys and such other expenses so incurred by the Village.

9. Developer Indemnity. Developer covenants and agrees that the Village, its governing body, members, officers, agents, including independent contractors, consultants, legal counsel, servants and employees, hereinafter collectively referred to as the “Village Indemnified Parties” shall not be liable for and Developer agrees to jointly and severally indemnify and hold harmless the Village Indemnified Parties against the following which occur on or after the Effective Date (i) any loss or damage to the Property, or (ii) any injury to or death of any person occurring at the Facility and resulting from any defect in the Facility during construction, or (iii) from any costs or claim, including reasonable attorney fees, which may result from the Developer’s material breach of this Agreement, including but not limited to injuries or damage arising from the construction of the Facility, including construction liens, or (iv) any claim, demand, suit, action or other proceedings whatsoever by any person or entity whatsoever arising from the actions or inactions of the Developer (or other persons acting on its behalf or under its direction or control) under this Agreement or the transactions contemplated hereby, including the acquisition, construction, installation, Developer’s ownership (specifically excluding any warranties provided by Village in the covenancy of the Property to Developer) and operation of the project, except for any of the foregoing arising from the willful misrepresentation, gross negligence, or any willful or wanton misconduct of the Village Indemnified Parties.

10. Village Indemnity. The Village covenants and agrees that the Developer, its members, officers, agents, including independent contractors, consultants, legal counsel, servants and employees, hereinafter collectively referred to as the “Developer Indemnified Parties” shall not be liable for and Village agrees to jointly and severally indemnify and hold harmless the Developer Indemnified Parties against any costs or claim, including reasonable attorney fees, which may result from the Village’s default under this Agreement, including but not limited to injuries or damage arising from the construction of the Industrial Park, including construction liens, except for any of the foregoing arising from the willful misrepresentation or any willful wanton misconduct of the Developer Indemnified Parties, the Village agrees to protect and defend the Developer Indemnified Parties now and forever and further agrees to hold the aforesaid Developer Indemnified Parties

harmless from any claim, demand, suit, action or other proceedings whatsoever by any person or entity whatsoever arising or purportedly arising from the actions or inactions of the Village (or other persons acting on its behalf or under its direction or control) under this Agreement or the transactions contemplated hereby or the acquisition, construction, installation, ownership and operation of the project. Notwithstanding the foregoing, nothing contained within this Agreement is intended to be a waiver or estoppel of the Village or its insurer to rely upon the limitations, defenses and immunities contained under Wisconsin law, including those set forth in Wisconsin Statute Secs. 893.80, 895.52 and 345.05. To the extent that indemnification is available and enforceable, the Village or its insurer shall not be liable in indemnity or contribution for an amount greater than the limits of liability for municipal claims established under Wisconsin law.

11. Governing Law. This Agreement shall be governed and construed in accordance with the laws of the State of Wisconsin.

12. Counter Parts. This Agreement may be signed in any number of counterparts with the same effect as if signatures thereto and hereto were on the same instrument.

13. Entire Agreement. This Agreement contains the entire agreement and understanding of the parties with respect to the subject matter hereof and may not be amended or modified except through an instrument executed by all parties hereto.

14. Severability. If any provision of this Agreement shall be held or deemed to be inoperative or unenforceable, the validity of any one or more phrases, sentences, causes or sections contained in this Agreement shall not affect the remaining provisions or portions of this Agreement.

15. Authority. The parties acknowledge that approval for the authority to execute this Agreement has been obtained by the governing body or members of each party.

16. Termination of Closing Agreement. Upon full execution of this Agreement, the Closing Agreement shall be terminated and of no further force and effect.

[signatures on next page]

Dated: _____

Dated: _____

VILLAGE:

Village of Mukwonago

VILLAGE:

Village of Mukwonago

By: _____

Fred Winchowky,
President

By: _____

Diana Dykstra,
Clerk/Treasurer

[illegible]

Personally came before me, this ____ day of _____, 2022, the above-named Fred Winchowky and Diana Dykstra, to me known to be the person who executed the foregoing instrument and acknowledged the same.

Notary Public, State of Wisconsin
My Commission is permanent/expires: _____

Dated: _____

DEVELOPER:

HILL COURT PARTNERS RELOAD, LLC

By: _____
Nelson E. Williams, Manager

STATE OF WISCONSIN)
) ss.
COUNTY OF WAUKESHA)

Personally came before me, this ____ day of _____, 2022, the above-named _____, to me known to be the person who executed the foregoing instrument and acknowledged the same.

Notary Public, State of Wisconsin

This document was drafted by:
Lisa Wood
Davis & Kuelthau, s.c.
111 E. Kilbourn Avenue, Suite 1400
Milwaukee, WI 53202
Phone: (414) 225-1416
Email: lwood@dkattorneys.com

EXHIBIT A
CERTIFIED SURVEY MAP

EXHIBIT B

PRELIMINARY SITE PLAN



PERSPECTIVE VIEW LOOKING SOUTHEAST

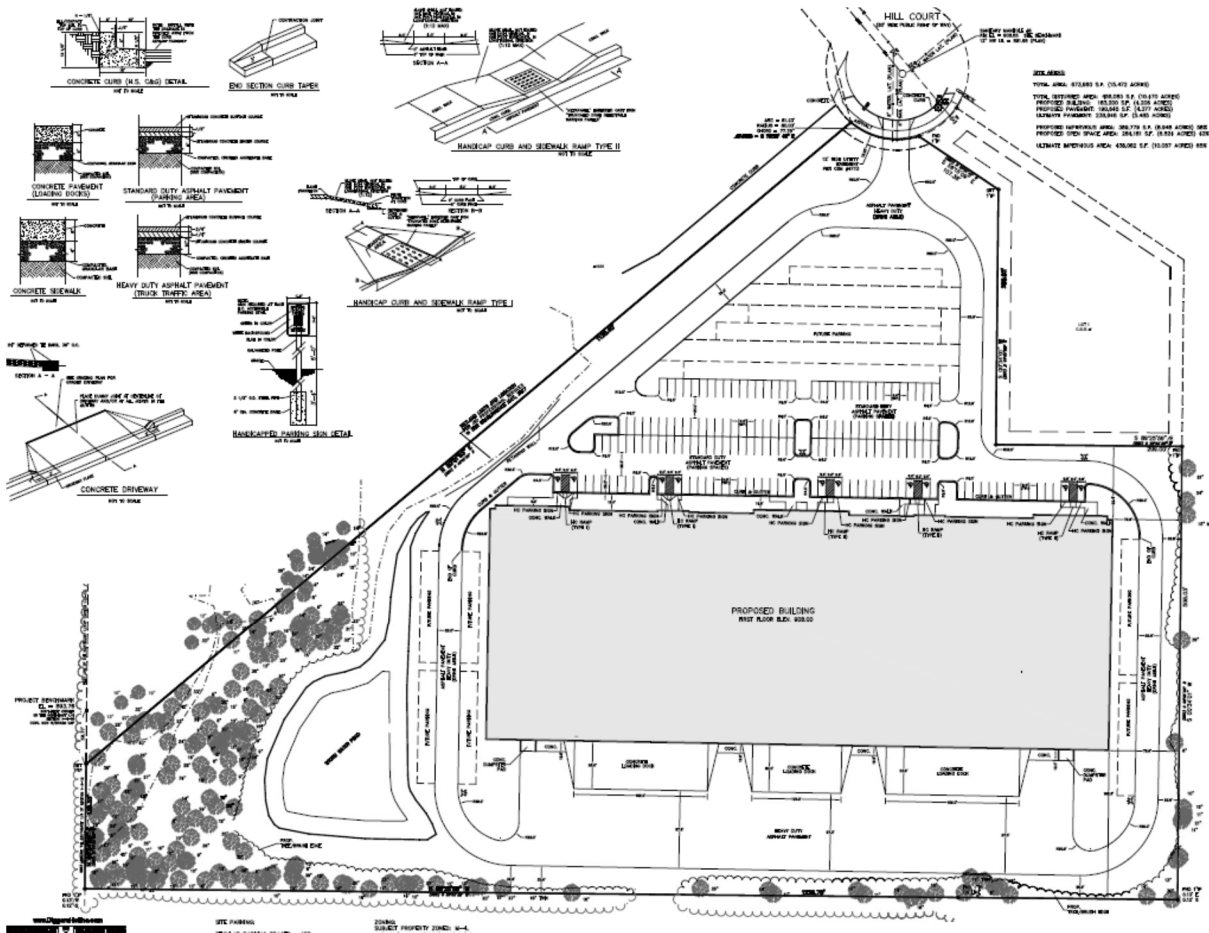


AERIAL LOOKING SOUTHWEST



AERIAL LOOKING SOUTHEAST





engineered
design and
construction
LLC
10000 S. 100TH AVE.
SUITE 100
JACKSONVILLE, FL 32256
904.444.1234
www.engineereddesign.com

HILL COURT SOUTH MULTI-TENANT BUILDING

SHEET NO. 1
MARCH 2022

**SERVICE AGREEMENT
FOR THE PROVISION OF INFORMATION TECHNOLOGY (IT) MANAGED
SERVICES FOR THE VILLAGE OF MUKWONAGO**

This Agreement is made and entered into this ___ day of ~~June~~ **May**, 2022, by and between **Velocity Solutions**, hereinafter referred to as the “Service Provider,” and the **Village of Mukwonago**, Wisconsin, hereinafter referred to as the “Village”.

In consideration of the mutual agreements contained herein, the Village and the Service Provider agree as follows:

1. The Village will:

The Village will pay the Service Provider an hourly rate of \$85 per hour for the services provided as described within this Agreement. Such payment shall be ~~full~~ compensation for ~~all~~ **professional** services rendered and for all **supervision and labor. and other incidental costs incurred by the Service Provider in carrying out its duties and responsibilities as provided herein.** The Village shall issue payment within 30 days of receipt of monthly invoices that reflect only hours of actual support services provided **in addition to any licensing, hardware or software procured from the Service Provider.** Payment is to be used strictly for services ~~hours~~ outlined in this Agreement and cannot be used as a credit for hardware, software, or anything else not in this Agreement.

To expedite payment of invoices under this Agreement, the invoices should be sent to the following:

Diana Doherty, Finance Director
Mukwonago Village Hall
440 River Crest Ct.
Mukwonago, WI 53149

The Village will provide a sufficient area/room for the provision of the services described in any municipal facility as needed to perform the duties and responsibilities of the Service Provider as enumerated herein, including access to municipal computers, databases, and the like at a reasonable date and time so as to not adversely impact ongoing municipal functions at the Village. The Village will make available to the Service Provider any information, reports, equipment, and data in possession of the Village necessary for the Service Provider to carry out its duties and responsibilities as enumerated herein. In order for the Service Provider to perform the duties and responsibilities as enumerated below, and to efficiently manage the Village’s data infrastructure, the Village agrees to make no changes to the IT infrastructure without consultation with the Service Provider.

2. The Service Provider will:

The Service Provider hereby agrees to perform technology services requested by said Village as follows: The Service Provider will be expected to assist with IT related functions that are to include: Client Management, Server Management, Network Maintenance, On ☐ call support, Cyber Security, Vendor Management and Network Architecture and Design. Service Provider shall

provide on-call personnel to respond to daily network and user needs, in addition to monitoring and patching. The Service Provider will be expected to assist in a “coordinator” role on various issues within the scope of essential duties and responsibilities. Examples of the “coordinator role” include the following:

- Reporting to the Village on the status of the Village’s IT network.
- Working with Department Heads/designees to help them implement IT related activities within their office.
- Serving as the de facto Director of IT for the Village.

Service Provider will provide a minimum of 8 hours of IT service to the Village per week. These 8 hours shall be **primarily** conducted physically at Village facilities **however, incidental offsite and remote support will be permitted for performing after hours system upgrades.**

2. Duration:

This Agreement will become effective upon signature. This Agreement by and between the Village of Mukwonago and the Service Provider shall have a duration from **xxxx, 2022 through xxxxx, 2023**, with additional one-year options for a potential to perform IT support for up to five years. The Village of Mukwonago will have the sole discretion to exercise these options.

3. Negotiation of Rate Adjustment in Future Years:

If the Village exercises the option to extend the Agreement beyond the initial 1-year term, any rate increase will be subject to a CPI-U (The Consumer Price Index for All Urban Consumers) adjustment as well as a possible hourly rate renegotiation at the discretion and request of the Service Provider.

4. Use of Village Name:

It is understood and agreed that the name of the Village and the municipal location may not be used by the Service Provider or its agents in any promotional materials without prior approval of the Village.

5. Independent Contractor:

It is understood and agreed that the Service Provider is an independent contractor for the performance of all services described within this Agreement. Nothing contained in this Agreement shall be deemed or interpreted to constitute the independent contractor as a partner, agent or employee of the Village, nor shall either party have any authority to bind the other.

6. Assignment:

This Agreement is not assignable by the Service Provider without the express written consent of the Village, and in the event of bankruptcy, assignment for the benefit of creditors, or a petition for receivership relative to the Service Provider, the Village may, without notice, declare this Agreement at an end, at its option.

7. **Liability and insurance:**

The Service Provider shall, before commencing work, procure and maintain for the duration of the Agreement professional liability insurance with minimum limits of \$1,000,000.00 per occurrence. This insurance must apply to the Service Provider's agents, employees, representatives, and sub-contractors. The insurance provider must be licensed in the State of Wisconsin to provide the coverage.

8. **Confidentiality:**

Service Provider acknowledges and agrees that it will not disclose any information obtained in performing services pursuant to this Agreement. Service Provider agrees to hold all information in strictest confidence and will take proper and appropriate steps, at all times, to protect such information from disclosure to third parties. All information obtained from the Village will be used by Service Provider only in connection with its rights and obligations under this Agreement and no other use will be made of it. A violation of this paragraph will be a material violation of this Agreement. The parties also acknowledge that the Village is subject to Wisconsin open records law and will comply therewith.

9. **Notice:**

Any and all notices related to this Agreement, including notice regarding cancellation, shall be via certified mail to:

Village:
Village of Mukwonago
Village Administrator's Office
440 River Crest Court
Mukwonago, WI 53149

Service Provider:
Mr. John Wisniewski
Velocity Solutions
W268S8380 Alpine Drive
Mukwonago, WI 53149

10. **Disputes:**

In the event of a dispute between Village and Service Provider arising out of or related to this Agreement, the aggrieved party shall notify the other party of the dispute within a reasonable time after such dispute arises. If the parties cannot thereafter resolve the dispute, each party shall nominate a senior officer of its management to meet to resolve the dispute by direct negotiation or mediation. Should such negotiation or mediation fail to resolve the dispute, either party may end this agreement with 30 days written notice. During the pendency of any dispute, the parties shall continue diligently to fulfill their respective obligations hereunder. **Either party also has the right to end this agreement with 30 days written notice for any reason.**

11. **Wisconsin Law:**

This Agreement shall be governed by and construed with the laws of the State of Wisconsin.

12. **Complete Agreement:**

This Agreement represents the entire of listing of the terms, obligations, and responsibilities of the parties. This Agreement may be modified only in writing by an amendment signed by both parties.

13. **Endorsement:**

By endorsing this Agreement both the Service Provider and the Village indicate that each has the authority to bind to the terms of this Agreement. The Service Provider in executing this Agreement acknowledges that it has not been induced to enter into this Agreement by any understanding or promise or other statement, whether verbal or written, by or on behalf of the Village concerning any matter not expressed herein. The Service Provider acknowledges that the Village has relied upon the proposal submitted by the Service Provider and has awarded the Agreement in reliance thereon.

VELOCITY SOLUTIONS

VILLAGE OF MUKWONAGO

By _____

By _____

Title:

Village President

**SERVICE AGREEMENT
FOR THE PROVISION OF INFORMATION TECHNOLOGY (IT) MANAGED
SERVICES FOR THE VILLAGE OF MUKWONAGO**

This Agreement is made and entered into this____day of May, 2022, by and between **Velocity Solutions**, hereinafter referred to as the “Service Provider,” and the **Village of Mukwonago**, Wisconsin, hereinafter referred to as the “Village”.

In consideration of the mutual agreements contained herein, the Village and the Service Provider agree as follows:

1. The Village will:

The Village will pay the Service Provider an hourly rate of \$85 per hour for the services provided as described within this Agreement. Such payment shall be compensation for professional services rendered and for all supervision, labor. The Village shall issue payment within 30 days of receipt of monthly invoices that reflect only hours of actual support services provided in addition to licensing, hardware or software procured from the Service Provider. Payment is to be used strictly for services outlined in this Agreement and cannot be used as a credit for hardware, software, or anything else not in this Agreement.

To expedite payment of invoices under this Agreement, the invoices should be sent to the following:

Diana Doherty, Finance Director
Mukwonago Village Hall
440 River Crest Ct.
Mukwonago, WI 53149

The Village will provide a sufficient area/room for the provision of the services described in any municipal facility as needed to perform the duties and responsibilities of the Service Provider as enumerated herein, including access to municipal computers, databases, and the like at a reasonable date and time so as to not adversely impact ongoing municipal functions at the Village. The Village will make available to the Service Provider any information, reports, equipment, and data in possession of the Village necessary for the Service Provider to carry out its duties and responsibilities as enumerated herein. In order for the Service Provider to perform the duties and responsibilities as enumerated below, and to efficiently manage the Village’s data infrastructure, the Village agrees to make no changes to the IT infrastructure without consultation with the Service Provider.

2. The Service Provider will:

The Service Provider hereby agrees to perform technology services requested by said Village as follows: The Service Provider will be expected to assist with IT related functions that are to include: Client Management, Server Management, Network Maintenance, On-call support, Cyber Security, Vendor Management and Network Architecture and Design. Service Provider shall provide on-call personnel to respond to daily network and user needs, in addition to monitoring

and patching. The Service Provider will be expected to assist in a “coordinator” role on various issues within the scope of essential duties and responsibilities. Examples of the “coordinator role” include the following:

- Reporting to the Village on the status of the Village’s IT network.
- Working with Department Heads/designees to help them implement IT related activities within their office.
- Serving as the de facto Director of IT for the Village.

Service Provider will provide a minimum of 8 hours of IT service to the Village per week. These 8 hours shall be conducted physically at Village facilities. However, incidental offsite and remote support will be permitted as warranted for performing after hours system upgrades.

2. Duration:

This Agreement will become effective upon signature. This Agreement by and between the Village of Mukwonago and the Service Provider shall have a duration from **June 15, 2022 through June 15, 2023**, with additional one-year options for a potential to perform IT support for up to five years. The Village of Mukwonago will have the sole discretion to exercise these options. Either party also has the right to terminate this agreement with 30 days written notice to the other party, for any reason.

3. Negotiation of Rate Adjustment in Future Years:

If the Village exercises the option to extend the Agreement beyond the initial 1-year term, any rate increase will be subject to a CPI-U (The Consumer Price Index for All Urban Consumers) adjustment as well as a possible hourly rate renegotiation at the discretion and request of the Service Provider.

4. Use of Village Name:

It is understood and agreed that the name of the Village and the municipal location may not be used by the Service Provider or its agents in any promotional materials without prior approval of the Village.

5. Independent Contractor:

It is understood and agreed that the Service Provider is an independent contractor for the performance of all services described within this Agreement. Nothing contained in this Agreement shall be deemed or interpreted to constitute the independent contractor as a partner, agent or employee of the Village, nor shall either party have any authority to bind the other.

6. Assignment:

This Agreement is not assignable by the Service Provider without the express written consent of the Village, and in the event of bankruptcy, assignment for the benefit of creditors, or a petition for receivership relative to the Service Provider, the Village may, without notice, declare this Agreement at an end, at its option.

7. **Liability and insurance:**

The Service Provider shall, before commencing work, procure and maintain for the duration of the Agreement professional liability insurance with minimum limits of \$1,000,000.00 per occurrence. This insurance must apply to the Service Provider's agents, employees, representatives, and sub-contractors. The insurance provider must be licensed in the State of Wisconsin to provide the coverage.

8. **Confidentiality:**

Service Provider acknowledges and agrees that it will not disclose any information obtained in performing services pursuant to this Agreement. Service Provider agrees to hold all information in strictest confidence and will take proper and appropriate steps, at all times, to protect such information from disclosure to third parties. All information obtained from the Village will be used by Service Provider only in connection with its rights and obligations under this Agreement and no other use will be made of it. A violation of this paragraph will be a material violation of this Agreement. The parties also acknowledge that the Village is subject to Wisconsin open records law and will comply therewith.

9. **Notice:**

Any and all notices related to this Agreement, including notice regarding cancellation, shall be via certified mail to:

Village:
Village of Mukwonago
Village Administrator's Office
440 River Crest Court
Mukwonago, WI 53149

Service Provider:
Mr. John Wisniewski
Velocity Solutions
W268S8380 Alpine Drive
Mukwonago, WI 53149

10. **Disputes:**

In the event of a dispute between Village and Service Provider arising out of or related to this Agreement, the aggrieved party shall notify the other party of the dispute within a reasonable time after such dispute arises. If the parties cannot thereafter resolve the dispute, each party shall nominate a senior officer of its management to meet to resolve the dispute by direct negotiation or mediation. Should such negotiation or mediation fail to resolve the dispute, either party may end this agreement with 30 days written notice. During the pendency of any dispute, the parties shall continue diligently to fulfill their respective obligations hereunder.

11. **Wisconsin Law:**

This Agreement shall be governed by and construed with the laws of the State of Wisconsin.

12. **Complete Agreement:**

This Agreement represents the entire of listing of the terms, obligations, and responsibilities of the parties. This Agreement may be modified only in writing by an amendment signed by both parties.

13. **Endorsement:**

By endorsing this Agreement both the Service Provider and the Village indicate that each has the authority to bind to the terms of this Agreement. The Service Provider in executing this Agreement acknowledges that it has not been induced to enter into this Agreement by any understanding or promise or other statement, whether verbal or written, by or on behalf of the Village concerning any matter not expressed herein. The Service Provider acknowledges that the Village has relied upon the proposal submitted by the Service Provider and has awarded the Agreement in reliance thereon.

VELOCITY SOLUTIONS

VILLAGE OF MUKWONAGO

By _____

By _____

Title:

Village President