

INTERIM FIRE CHIEF INDEPENDENT CONTRACTOR AGREEMENT

This Interim Fire Chief Independent Contractor Agreement (hereinafter referred to as the "Agreement") is made this 15th day of July, 2010, by and between the VILLAGE OF LOMBARD (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 the following services to the VILLAGE during the term of this Agreement, as more fully detailed below: (1) Serve as Interim Fire Chief; (2) prepare a service delivery assessment; and (3) provide support to the VILLAGE in the selection of a permanent Fire Chief. 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.
 - A. **Services as Interim Fire Chief.** WRB agrees to provide management services as Interim Fire Chief of the VILLAGE for the term of this Agreement to ensure that the performance, accountability, legal compliance and morale of the Village of Lombard Fire Department (hereinafter referred to as the "Department") and its operations remain consistent and acceptable to the VILLAGE. The interim management services shall be provided to the Department by WRB's Goal Directed Interim Management Program (hereinafter referred to as the "Program"). The Program shall accomplish the following during the term of this Agreement:
 - i. Stabilize the Department during the management vacancy of a permanent Fire Chief;
 - ii. Perform a financial assessment of the Department and review accountability, legal compliance, and contract compliance management issues;
 - iii. Identification and implementation of Department initiatives and projects;
 - iv. Maintain and improve effective and responsive personnel management;
 - v. The daily management of policy, standards and regulations, compliance with deadlines, and identifying and implementing new and creative solutions to problems; and
 - vi. Provide the VILLAGE, through the Village Manager, with bi-weekly work reports to monitor progress and measure the performance of the Program.

- B. **Service Delivery Assessment.** WRB agrees to conduct a service delivery assessment (hereinafter referred to as the "Assessment") of the Department. The Assessment shall include an audit of the Department's current operations and costs to establish and define the Department's "base case service level." Once the base case service level is established and defined, WRB shall use the information to identify gaps in service and opportunities to lower the Department's cost structure in a manner that does not compromise the effectiveness of the Department or its ability to pursue its mission. Finally, WRB shall prepare a preliminary cost savings estimate and an implementation strategy for the VILLAGE to be used by the new Fire Chief in moving the Department into the future in accordance with WRB's recommendations, as outlined in WRB's final report on the Assessment to be provided to the VILLAGE.
- C. **Selection of Permanent Fire Chief.** WRB agrees to provide the VILLAGE, through the Village Manager, with an independent performance evaluation of each member of the Department's command team to assist the VILLAGE in identifying in house candidates for the permanent Fire Chief position. WRB shall also provide additional assistance in the selection process as may be requested by the Village Manager.
- D. **On Site Associate.** WRB agrees to provide at least one (1) associate to be on site in the Village Manager's office on the dates of July 30, 2010, and August 2, 3, 4 and 5, 2010.
- E. **Work Plan and Timeline for Provision of Services.** WRB agrees to provide the services to the VILLAGE under this Agreement pursuant to the work plan and timeline attached hereto as **Exhibit A** and made a part hereof.
- F. **Pre-engagement Services.** WRB has provided, and will continue to provide, pre-engagement services to the VILLAGE at no cost to the VILLAGE. The pre-engagement services shall be comprised of (1) an onsite meeting with all three (3) Department Battalion Chiefs held on June 28, 2010; and (2) a review of daily reports provided to WRB by the VILLAGE from July 1, 2010 to July 16, 2010.
3. **TERM.** The term of this Agreement shall be from July 19, 2010, to October 22, 2010 at 5:00 p.m. However, at the VILLAGE's request, this Agreement may be extended on a weekly basis should the Village Manager determine it to be necessary. Moreover, WRB shall be available after the term of this Agreement, at the agreed hourly rate, to assist and advise the Department and the VILLAGE should the Village Manager determine it to be necessary.
4. **COMPENSATION.** WRB shall be compensated by the VILLAGE for its services under this Agreement in an amount not to exceed \$64,680.00.
- A. **Mechanism of Payment.** WRB shall provide detailed timesheets to the Village Manager on a form acceptable to him, on a monthly basis, identifying (1) the

individual performing work; (2) the date the work was performed; (3) the amount of time spent on the specific task; and (4) a description of the task performed. Upon receipt and approval by the Village Manager of timesheets for a given month, the VILLAGE shall make payment to WRB within thirty (30) days thereafter, subject to the approval of the corporate authorities of 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 Village.** 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, tortious 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 \$3,000,000.00 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 insureds. The VILLAGE shall have the right to approve the coverage and carrier, which approval shall not be unreasonably withheld. WRB shall also carry during the term of this Agreement, a Worker's Compensation Insurance Policy with coverage in the statutory amount conforming to the current laws of the State of Illinois and shall furnish the VILLAGE a Certificate of Insurance evidencing such coverage.

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 Lombard.”

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 shall not be responsible for providing any equipment (e.g., computers), office space or clerical support to WRB.
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. **COMPLETE AGREEMENT**. This Agreement contains the entire understanding between the Parties and supersedes any prior understanding or written or oral agreements between them with respect to the subject matter of this Agreement. There are no representations, agreements, arrangements or understandings, oral or written, between and among the Parties hereto relating to the subject matter of this Agreement which are not fully expressed herein. No oral modification, amendment or change shall be allowed to this Agreement. Any modification, amendment or change is subject to the mutual

agreement of the Parties and must be reduced to writing and executed by both Parties to be effective.

12. **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 DuPage County, Illinois, and the Parties agree to voluntarily submit to the jurisdiction of such court for the purpose of any such litigation or proceeding.
13. **ASSIGNMENT.** This Agreement may not be assigned, transferred or conveyed by WRB without the prior written consent of the VILLAGE.
14. **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 VILLAGE:

Village Manager
255 East Wilson Avenue
Lombard, Illinois 60148

If to WRB:

William Balling
412 S Prindle Avenue
Arlington Heights, IL 60004
15. **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.
16. **EFFECTIVE DATE.** This Agreement shall become effective on the date the last signatory signs this Agreement.

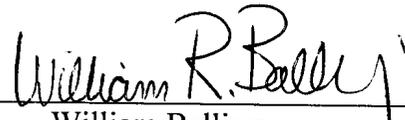
SIGNATURE LINE TO FOLLOW ON NEXT PAGE:

IN WITNESS WHEREOF, the Parties hereto have signed this Agreement as set forth below.

VILLAGE OF LOMBARD, an
Illinois Municipal Corporation

WRB, LLC

By: 
William Mueller
Village President

By: 
William Bally

Attest: 
Brigitte O'Brien
Village Clerk

DATE: July 15, 2010

DATE: July 26, 2010

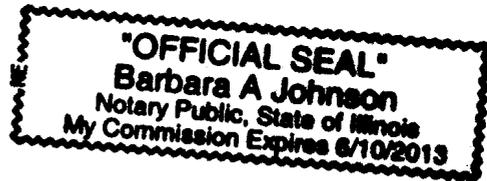
STATE OF ILLINOIS)
) SS
COUNTY OF DUPAGE)

I, the undersigned, a Notary Public in and for the County and State aforesaid, DO HEREBY CERTIFY, that the above named William J. Mueller and Brigitte O'Brien, being the Village President and Clerk of the Village of Lombard, respectively, personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary act, and as the free and voluntary act of the Village of Lombard, for the uses and purposes therein set forth.

Given under my hand and Notarial Seal this 15th day of July, 2010.

Barbara A Johnson
Notary Public

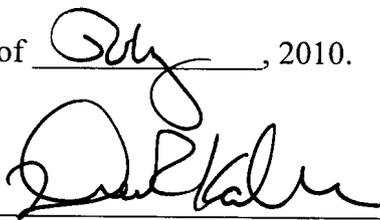
My Commission Expires: 6/10/2013



STATE OF ILLINOIS)
) SS
COUNTY OF DuPage)

I, the undersigned, a Notary Public in and for the County and State aforesaid, DO HEREBY CERTIFY, that the above named WILLIAM BALLING of WRB, LLC respectively, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act, and as the free and voluntary act of WRB, LLC for the uses and purposes therein set forth.

Given under my hand and Notarial Seal this 26th day of July, 2010.



Notary Public

My Commission Expires: 2-18-11

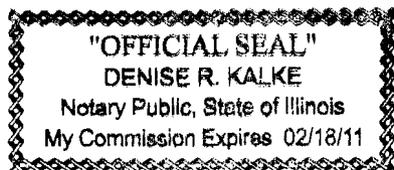


EXHIBIT A

Work Plan and Timeline for Provision of Services

Attachment #1

**Lombard Fire Department
Interim Management Work Plan
Revised June 25, 2010
Prepared by WRB, LLC Consulting and Services**

Pre Engagement Work:

June 28: Meet on site with all three Battalion Chiefs at the headquarters Station
July 1 to July 16: Review day reports via email.

Contract Work:

Note: This is a 14 week contract with a not to exceed contract maximum of \$64,680 to complete the work plan. At the Village's request the engagement can be extended weekly should in the determination additional time of work be required. The Consultant will also be available after the completion of the contract on the agreed hourly rate to assist and advise the Fire Department or the Village on additional work should that prove necessary.

Week:	Interim Chief:	Service Assessment:	Chief Selection:
#1 July 19	Opns review	Opns research	Search
#2 July 26	Fin/ Opns assmt	Opns evaluation	
#3 Aug 2*	Facil/Equip/ops	Base case define	Recruit close
#4 Aug 9	Resource eval	Base case define	
#5 Aug 16	Leadership assmt	Alternatives	Screening
#6 Aug 23	Line Assess	Alternatives	Screening
#7 Aug 30	Org Assess		
#8 Sep 6	Org Assess	Fin. Impact	7,8,9, Int/Test
#9 Sep 13	Org Assess	Opns impact	Background Select/Offer
#10 Sep 20	Service options	Opns impact	Appointment
#11 Sep 27	Pers evals	Opns impact	
#12 Oct 4	Pers Evals	Change Strategy	
#13 Oct 11	Transition	Prep Final report	First Day
#14 Oct 18	Final issues	Prep Final report Present final report October 21	
Oct 22,	Engagement ends		

* On site Associate July 30, August 2,3,4,5.

WRB