

**VILLAGE OF DOWNERS GROVE
REPORT FOR THE VILLAGE COUNCIL MEETING
JUNE 18, 2013 AGENDA**

SUBJECT:	TYPE:	SUBMITTED BY:
CALL ONE Telecommunications Agreements	✓ Resolution Ordinance Motion Discussion Only	Judy Buttny Finance Director

SYNOPSIS

Resolutions have been prepared approving four telecommunication contracts with CALL ONE for a period of 36 months. CALL ONE is a reseller of AT&T services that provides municipalities discounts through a purchasing contract with the Suburban Purchasing Cooperative. CALL ONE provides service to over 90 municipalities.

STRATEGIC PLAN ALIGNMENT

The Goals for 2011-2018 include *Steward of Financial and Environmental Sustainability*.

FISCAL IMPACT

The FY13 budget includes \$39,000 for this expense in the general fund. The annual cost will be \$36,000, a decrease of \$3,000 over the previous contract.

RECOMMENDATION

Approval on the June 18, 2013 consent agenda.

BACKGROUND

The Village uses CALL ONE for telephone and other telecommunications services that are not part of its Voice Over Internet Protocol (VoIP) system. Examples include its backup telephone lines in Village Hall and for the Emergency Operating Center, alarm lines and other data lines. CALL ONE has provided service to the Village since August 2007 through the Suburban Purchasing Cooperative (SPC), a joint purchasing program available to municipalities and other government agencies. CALL ONE is a reseller of AT&T services. They purchase AT&T services in bulk, and receive better pricing from AT&T than governments could get by dealing directly with AT&T. Through the Suburban Purchasing Cooperative, CALL ONE provides services to over 90 municipalities.

CALL ONE's pricing has decreased for this contract. The Village will save \$3,000 per year over the previous contract.

ATTACHMENTS

Resolutions
Agreements and Addendums

RESOLUTION NO. _____

**A RESOLUTION AUTHORIZING EXECUTION OF AN ISDN-PRI RENEWAL
CUSTOMER SERVICE AGREEMENT AND ADDENDUM BETWEEN THE
VILLAGE OF DOWNERS GROVE AND CALL ONE, INC.**

BE IT RESOLVED by the Village Council of the Village of Downers Grove, DuPage County, Illinois, as follows:

1. That the form and substance of a certain Agreement (the "Agreement") and Addendum (the "Addendum"), between the Village of Downers Grove ("Customer") and Call One, Inc. ("Call One"), for ISDN-PRI telecommunication services at 5101 Walnut Avenue, as set forth in the form of the Agreement and Addendum submitted to this meeting with the recommendation of the Village Manager, is hereby approved.

2. That the Village Manager and Village Clerk are hereby respectively authorized and directed for and on behalf of the Village to execute, attest, seal and deliver the Agreement and Addendum, substantially in the form approved in the foregoing paragraph of this Resolution, together with such changes as the Manager shall deem necessary.

3. That the proper officials, agents and employees of the Village are hereby authorized and directed to take such further action as they may deem necessary or appropriate to perform all obligations and commitments of the Village in accordance with the provisions of the Agreement and Addendum.

4. That all resolutions or parts of resolutions in conflict with the provisions of this Resolution are hereby repealed.

5. That this Resolution shall be in full force and effect from and after its passage as provided by law.

Mayor

Passed:

Attest: _____

Village Clerk



ISDN-PRI Customer Service Agreement

This Customer Service Agreement ("Agreement") authorizes Call One® Inc., with a principal place of business at 123 North Wacker, Floor 7, Chicago, IL 60606 ("Call One") to provide telecommunication services ("Services") to the customer identified immediately below ("Customer"). The Services provided hereby are subject to the Terms and Conditions set forth in this Agreement.

Customer Village of Downers Grove
Address 801 Burlington Ave
City Downers Grove ST IL ZIP 60515

Please check box to determine term and discount

- 1 Year
- 2 Year
- 3 Year

Additional Charges: All rates and discounts contained in this agreement are subject to the rates and discounts contained in the SPC underlying agreement. DID Porting Fee \$1.00/DID number ported. DID's at \$2.00/block of ten (10). Caller ID w/ Name, Failsafe Routing and 20,000 Local Band A, B, and C minutes included in MRC. \$50.00 MRC Admin Charge. Waive PIC fees.

Service/Additional Terms:

Install one (1) new ISDN PRI inclusive of Caller ID w/ Name, Failsafe Routing, and 20,000 Local Band A, B, and C minutes to replace existing ISDN PRI (.DZZD.586904.003.LB / BTN 630-R27-2469). Tag at D-marc. Port all DID's from existing ISDN PRI per the customer's request.

Billing Telephone Numbers (BTN) associated with this account:

Physical Location	City, State	BTN	Circuit ID	NRC	MRC	Term
5101 Walnut Ave	Downers Grove, IL 60515	NEW	NEW	\$2000.00(Waived)	\$240.00	36 Months

Authorized customer signature *Date* *CallOne authorized signature*

Print name *Title* *Print name* *Date*

Terms and Conditions

1. **Term.** Customer hereby orders the Local Exchange, Interexchange and miscellaneous services incident thereto as described herein (collectively, the "Services") for the term selected by Customer on Page 1 of this Agreement (the "Term"), effective as of the date the Services are installed or first provided (the "Effective Date"). Upon expiration of the Term, the usage rates and monthly recurring charges applicable to a Term other than Month-to-Month will revert to Call One's prevailing month-to-month rates unless Customer has (1) entered into a successor agreement or (2) canceled the Service, in each case effective as of the expiration of the Term. Call One is not responsible for notifying customer of the expiration of any Term.
2. **Rates.** (a) Unless otherwise specified on Page 1 of this Agreement, Call One's prevailing month-to-month rates for lines, features, other monthly recurring charges and non-recurring charges (e.g., installation, service establishment and/or other non-recurring charges) will apply to the Services. By executing this Agreement, Customer acknowledges that it has received notice of and is aware of the rates and other charges that apply to the Services that are not specifically identified on Page 1 of this Agreement. If there is any change to Call One's prevailing rates or charges that apply to the Services, Customer will be notified in its monthly invoice or in the applicable state tariff, effective as stated therein. If Customer has elected a Term other than Month-to-Month, the usage rates and monthly recurring charges (each expressed as a rate or as a discount off Call One's prevailing month-to-month rates) identified on Page 1 of this Agreement will apply to the Services during the Term. (b) Call One shall also bill Customer as a separate line item all applicable federal, state and other governmental fees, surcharges and taxes. (c) Call One may, at its sole discretion, increase the rates for Band C, 1+ long distance or inbound 800/888 toll-free Services, if and to the extent the charge from the local exchange carrier to terminate the outbound calls or to originate the inbound calls exceeds twenty-five percent of the rate for that Service, and that Service will be provided on a month-to-month term.
3. **Authorization.** Customer authorizes Call One to act as its agent for purposes of obtaining information on Customer's existing telecommunications and related service(s) and to submit orders to reflect the Services ordered under this Agreement for the specific Billing Telephone Numbers (BTN) and/or physical locations listed below and included in any supplement to this Agreement. This grant of agency shall remain in effect until revoked by Customer.
4. **Existing Commitments.** (a) If Customer has an existing term commitment contract with another service provider (a "Third Party Commitment"), Customer acknowledges that, in addition to the Terms and Conditions of this Customer Service Agreement, Customer shall remain obligated under the terms of such Third Party Commitment and shall be solely responsible for any penalties, fees or charges by virtue of that Third Party Commitment. (b) If, as part of Call One's provision of Services, Customer terminates a Third Party Commitment(s), Customer agrees that it is solely responsible for the fees associated with such termination. Further, no discount is provided for the related services unless and until Customer has agreed to terminate the Third Party Commitment(s) as provided above or the Third Party Commitment(s) has expired and Customer has entered a new agreement directly with Call One.
5. **Early Termination/Cancellation.** Customer shall be required to provide Call One a minimum of 30 days notice in writing of any termination/cancellation of Service(s). (a) If Customer terminates the Service in whole or in part prior to the expiration of the Term, Customer will be liable for an early termination charge equal to the Term Savings Recovery. As used herein, "Term Savings Recovery" is the total usage and monthly recurring charge discount received by the Customer calculated as follows: (A) the difference between the total usage charges billed to Customer at the discounted rates Customer received for the Term selected in this Agreement and the total usage charges that would have been billed to Customer at the Call One tariff month-to-month usage rates in effect as of the Effective Date; and (B) the difference between the discounted monthly recurring charges Customer received for the Term selected in this Agreement and the Call One tariff non-discounted monthly recurring charges in effect as of the Effective Date times the number of months Service was provided. In addition, Customer shall also be liable for any installation and/or other non-recurring charges that were waived. (b) If Call One terminates Service(s) in whole or in part due to Customer's non-payment or default, customer will be deemed to terminate the Service(s) and liable for all early termination charges. (c) If Customer cancels Service before the Service is established, Customer shall be liable to Call One for all reasonable expenses incurred by Call One to process the order for Service.
6. **Inside Wiring.** The applicable rates for inside wiring provided directly by Call One to Customer are specified on the technician-charges page of the Call One website at www.callone.com. Inside wiring provided by a third party vendor will be billed at their applicable rates and charges. In addition, any installation charges identified on Page 1 of this Agreement applies to the initial Service installation and does not include inside materials and wiring.
7. **Liability.** The entire liability of Call One, if any, for damages to Customer or to any third party whether in negligence, tort, contract or otherwise, which may arise from Call One's performance or non-performance of the Services is limited to an amount equal to a prorated adjustment of applicable monthly recurring charges for the Services affected or any portion thereof. The foregoing limitation of liability includes any mistakes, omissions, interruptions, delays, errors or defects in transmission occurring in the course of installing and/or furnishing the Service.
8. **Applicability of Tariffs.** This Agreement orders Services at rates provided herein and subject to the terms and conditions set forth in Call One's then-applicable state tariff, which tariff is incorporated by reference. State tariffs are available through the regulatory page of the Call One web site currently at www.callone.com. Customer acknowledges all services purchased pursuant to this agreement are for business purposes.
9. **Assignment.** Customer may not assign this Agreement (by operation of law or otherwise) without the prior written consent of Call One, which consent will not be unreasonably withheld or delayed. Any prohibited assignment shall be void ab initio.
10. **Entire Agreement.** Signed facsimile or scanned copies of this Agreement ^{and Addendum} will legally bind the parties to the same extent as originally executed documents. The terms contained in this Agreement and any documents attached and referenced herein constitute the entire agreement between the parties with respect to the subject matter hereof.
11. **Jurisdiction / Collection Costs.** Any action or proceeding arising out of or related to this Agreement, the Tariffs or Services ^{only} may be commenced in ~~any state or Federal court of competent jurisdiction in the State of Illinois. The Parties submit and expressly consent to the jurisdiction of such court and expressly waive any right to a trial by jury. Call One shall be entitled to recover from Customer all reasonable collection costs, including attorneys fees.~~
DuPage County or the Northern District of Illinois.

Customer initials _____

Call One initials _____

Call One Inc.

123 N Wacker Drive 7th Floor - Chicago, IL 60606 - Telephone 312-681-8300 - Fax 312-681-8301

ADDENDUM A TO ISDN-PRI CUSTOMER SERVICE AGREEMENT

The following terms and conditions shall apply to the Agreement dated 5/21/13 by and between Call One Inc. ("CALL ONE") and the Village of Downers Grove ("CUSTOMER"):

1. VILLAGE ORDINANCES

1.1 CALL ONE will strictly comply with all ordinances of the Village of Downers Grove and laws of the State of Illinois.

2. USE OF VILLAGE'S NAME

2.1 CALL ONE is specifically denied the right of using in any form or medium the name of the Village for public advertising unless express permission is granted by the Village.

3. INDEMNITY AND HOLD HARMLESS AGREEMENT

3.1 To the fullest extent permitted by law, CALL ONE shall indemnify, keep and save harmless the Village and its agents, officers, and employees, against all injuries, deaths, losses, damages, claims, suits, liabilities, judgments, costs and expenses, which may arise directly or indirectly from any negligence or from the reckless or willful misconduct of CALL ONE, its employees, or its subcontractors, and CALL ONE shall at its own expense, appear, defend and pay all charges of attorneys and all costs and other expenses arising therefrom or incurred in connection therewith, and, if any judgment shall be rendered against the Village in any such action, CALL ONE shall, at its own expense, satisfy and discharge the same. This Agreement shall not be construed as requiring CALL ONE to indemnify the Village for its own negligence. CALL ONE shall indemnify, keep and save harmless the Village only where a loss was caused by the negligent, willful or reckless acts or omissions of CALL ONE, its employees or subcontractors.

4. NONDISCRIMINATION

4.1 CALL ONE shall, as a party to a public contract:

(a) Refrain from unlawful discrimination in employment and undertake affirmative action to assure equality of employment opportunity and eliminate the effects of past discrimination;

(b) CALL ONE certifies that it is an "equal opportunity employer" as defined by Section 900(e) of Chapter 21, Title 42, U.S. Code Annotated and Executive Orders #11247 and #11375, which are incorporated herein by reference. The Equal Opportunity clause, Section 7.1 of the Rules and Regulations of the Department of Human Rights of the State of Illinois, is a material part of this contract.

4.2 It is unlawful to discriminate on the basis of race, color, sex, national origin, ancestry, age, marital status, physical or mental handicap, military status, order of protection status, sexual identity or orientation or unfavorable discharge for military service. CALL ONE shall comply with standards set forth in Title VII of the Civil Rights Act of 1964, 42 U.S.C. Sec. 2000 et seq., The Human Rights Act of the State of Illinois, 775 ILCS 5/1-101 et. seq., and

The Americans With Disabilities Act, 42 U.S.C. Sec. 12101 et. seq.

5. SEXUAL HARASSMENT POLICY

5.1 CALL ONE, as a party to a public contract, shall have a written sexual harassment policy that:

- 5.1.1 Notes the illegality of sexual harassment;
- 5.1.2 Sets forth the State law definition of sexual harassment;
- 5.1.3 Describes sexual harassment utilizing examples;
- 5.1.4 Describes CALL ONE's internal complaint process including penalties;
- 5.1.5 Describes the legal recourse, investigative and complaint process available to CALL ONE's employees; and
- 5.1.7 Describes the protection against retaliation afforded to CALL ONE's employees.

7. EQUAL EMPLOYMENT OPPORTUNITY

7.1 In the event of CALL ONE's non-compliance with the provisions of this Equal Employment Opportunity Clause, the Illinois Human Rights Act or the Rules and Regulations of the Illinois Department of Human Rights ("Department"), CALL ONE may be declared ineligible for future contracts or subcontracts with the State of Illinois or any of its political subdivisions or municipal corporations, and the contract may be canceled or voided in whole or in part, and such other sanctions or penalties may be imposed or remedies invoked as provided by statute or regulation. During the performance of this contract, CALL ONE agrees as follows:

- 7.1.1 That it will not discriminate against any employee or applicant for employment because of race, color, religion, sex, marital status, national origin or ancestry, age, physical or mental handicap unrelated to ability, military status, order of protection status, sexual orientation, sexual identity or an unfavorable discharge from military service; and further that it will examine all job classifications to determine if minority persons or women are underutilized and will take appropriate affirmative action to rectify any such underutilization.
- 7.1.2 That, if it hires additional employees in order to perform this contract or any portion thereof, it will determine the availability (in accordance with the Department's Rules and Regulations) of minorities and women in the area(s) from which it may reasonably recruit and it will hire for each job classification for which employees are hired in such a way that minorities and women are not underutilized.
- 7.1.3 That, in all solicitations or advertisements for employees placed by it or on its behalf, it will state that all applicants will be afforded equal opportunity without discrimination because of race, color, religion, sex, marital status, national origin or ancestry, age, physical or mental handicap unrelated to ability, military status, order of protection status or an unfavorable discharge from military services.
- 7.1.4 That it will send to each labor organization or representative of workers with which it

has or is bound by a collective bargaining or other agreement or understanding, a notice advising such labor organization or representative of the CALL ONE's obligations under the Illinois Human Rights Act and the Department's Rules and Regulations. If any such labor organization or representative fails or refuses to cooperate with the CALL ONE in its efforts to comply with such Act and Rules and Regulations, the CALL ONE will promptly so notify the Department and the contracting agency and will recruit employees from other sources when necessary to fulfill its obligations thereunder.

7.1.5 That it will submit reports as required by the Department's Rules and Regulations, furnish all relevant information as may from time to time be requested by the Department or the contracting agency, and in all respects comply with the Illinois Human Rights Act and the Department's Rules and Regulations.

7.1.7 That it will permit access to all relevant books, records, accounts and work sites by personnel of the contracting agency and the Department for purpose of investigation to ascertain compliance with the Illinois Human Rights Act and the Department's Rules and Regulations.

7.1.7 That it will include verbatim or by reference the provisions of this clause in every subcontract it awards under which any portion of the contract obligations are undertaken or assumed, so that such provisions will be binding upon such subcontractor. In the same manner as with other provisions of this contract, CALL ONE will be liable for compliance with applicable provisions of this clause by such subcontractors; and further it will promptly notify the contracting agency and the Department in the event any subcontractor fails or refuses to comply therewith. In addition, the CALL ONE will not utilize any subcontractor declared by the Illinois Human Rights Commission to be ineligible for contracts or subcontracts with the State of Illinois or any of its political subdivision or municipal corporations.

7. DRUG FREE WORK PLACE

CALL ONE, as a party to a public contract, certifies and agrees that it will provide a drug free workplace by:

- 7.1 Publishing a statement: (1) Notifying employees that the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance, including cannabis, is prohibited in the Village's or CALL ONE's workplace. (2) Specifying the actions that will be taken against employees for violations of such prohibition. (3) Notifying the employee that, as a condition of employment on such contract or grant, the employee will: (A) abide by the terms of the statement; and (B) notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction.
- 7.2 Establishing a drug free awareness program to inform employee's about: (1) the dangers of drug abuse in the workplace; (2) the Village's or CALL ONE's policy of maintaining a drug free workplace; (3) any available drug counseling, rehabilitation and employee assistance

programs; (4) the penalties that may be imposed upon employees for drug violations.

- 7.3 Providing a copy of the statement required above to each employee engaged in the performance of the contract or grant and to post the statement in a prominent place in the workplace.
- 7.4 Notifying the contracting or granting agency within ten (10) days after receiving notice of any criminal drug statute conviction for a violation occurring in the workplace from an employee or otherwise receiving actual notice of such conviction.
- 7.5 Imposing a sanction on, or requiring the satisfactory participation in, a drug abuse assistance or rehabilitation program by any employee who is so convicted as required by section 5 of the Drug Free Workplace Act.
- 7.7 Assisting employees in selecting a course of action in the event drug counseling, treatment and rehabilitation is required and indicating that a trained referral team is in place.
- 7.7 Making a good faith effort to continue to maintain a drug free workplace through implementation of the Drug Free Workplace Act.

8. PATRIOT ACT COMPLIANCE

CALL ONE represents and warrants to the Village that neither it nor any of its principals, shareholders, members, partners, or affiliates, as applicable, is a person or entity named as a Specially Designated National and Blocked Person (as defined in Presidential Executive Order 13224) and that it is not acting, directly or indirectly, for or on behalf of a Specially Designated National and Blocked Person. CALL ONE further represents and warrants to the Village that CALL ONE and its principals, shareholders, members, partners, or affiliates, as applicable are not, directly or indirectly, engaged in, and are not facilitating, the transactions contemplated by this Agreement on behalf of any person or entity named as a Specially Designated National and Blocked Person. CALL ONE hereby agrees to defend, indemnify and hold harmless the Village, and its elected or appointed officers, employees, agents, representatives, engineers and attorneys, from and against any and all claims, damages, losses, risks, liabilities and expenses (including reasonable attorney's fees and costs) arising from or related to any breach of the foregoing representations and warranties.

9. INSURANCE REQUIREMENTS

- 9.1 Prior to starting the work, CALL ONE and any subcontractors shall procure, maintain and pay for such insurance as will protect against claims for bodily injury of death, or for damage to property, including loss of use, which may arise out of operations by CALL ONE or subcontractor or by anyone employed by any of them, or by anyone for whose acts any of them may be liable. Such insurance shall not be less than the greater of coverages and limits of liability specified below or any coverages and limits of liability specified in the Contract Documents or coverages and limits required by law unless otherwise agreed to by the Village.

Village of Downers Grove.

Workers Compensation	\$500,000	Statutory
Employers Liability	\$1,000,000	Each Accident
	\$1,000,000	Disease Policy Limit
	\$1,000,000	Disease Each Employee
Comprehensive General Liability	\$2,000,000	Each Occurrence
	\$2,000,000	Aggregate
		<i>(Applicable on a Per Project Basis)</i>
Commercial Automobile Liability	\$1,000,000	Each Accident
Professional Errors & Omissions	\$1,000,000	Each Claim
(pursuant to section .9 below)	\$1,000,000	Annual Aggregate
Umbrella Liability	\$ 3,000,000	

- 9.2 Comprehensive General Liability Insurance required under this paragraph shall be written on an occurrence form and shall include coverage for Products/Completed Operations, Personal Injury with Employment Exclusion (if any) deleted, Blanket XCU and Blanket Contractual Liability insurance applicable to defense and indemnity obligations and other contractual indemnity assumed under the Contract Documents. The limit must be on a “Per Project Basis”.
- 9.3 Commercial Automobile Liability Insurance required under this paragraph shall include coverage for all owned, hired and non-owned automobiles.
- 9.4 Workers Compensation coverage shall include a waiver of subrogation against the Village.
- 9.5 Comprehensive General Liability, Employers Liability and Commercial Automobile Liability Insurance may be arranged under single policies for full minimum limits required, **or** by a combination of underlying policies with the balance provided by Umbrella and/or Excess Liability policies.
- 9.7 CALL ONE and all Subcontractors shall have their respective Comprehensive General Liability (including products/completed operations coverage), Employers Liability, Commercial Automobile Liability, and Umbrella/Excess Liability policies endorsed to add the “Village of Downers Grove, officers, officials, employees and volunteers” as “additional insureds” with respect to liability arising out of operations performed; claims for bodily injury or death brought against the Village by any CALL ONE or subcontractor employees, however caused, related to the performance of operations under the Contract Documents.

Such insurance afforded to the Village shall be endorsed to provide that the insurance provided under each policy shall be *Primary and Non-Contributory*.

- 9.7 CALL ONE and all subcontractors shall maintain in effect all insurance coverages required by the Contract Documents at their sole expense and with insurance carriers licensed to do business in the State of Illinois and having a current A. M. Best rating of no less than A-VIII. In the event that the CALL ONE or any subcontractor fails to procure or maintain any insurance required by the Contract Documents, the Village may, at its option, purchase such coverage and deduct the cost thereof from any monies due to CALL ONE or subcontractor, or withhold funds in an amount sufficient to protect the Village, or terminate this Agreement pursuant to its terms.
- 9.8 All insurance policies shall contain a provision that coverages and limits afforded hereunder shall not be canceled, materially changed, non-renewed or restrictive modifications added, without thirty (30) days prior written notice to the Village. Renewal certificates shall be provided to the Village not less than five (5) prior to the expiration date of any of the required policies. All Certificates of Insurance shall be in a form acceptable to Village and shall provide satisfactory evidence of compliance with all insurance requirements. The Village shall not be obligated to review such certificates or other evidence of insurance, or to advise CALL ONE or subcontractor of any deficiencies in such documents, and receipt thereof shall not relieve the CALL ONE or subcontractor from, nor be deemed a waiver of the right to enforce the terms of the obligations hereunder. The Village shall have the right to examine any policy required and evidenced on the Certificate of Insurance.
- 9.9 Only in the event that the work under the Contract Documents includes design, consultation, or any other professional services, CALL ONE or the subcontractor shall procure, maintain, and pay for Professional Errors and Omissions insurance with limits of not less than \$1,000,000 per claim and \$1,000,000 annual aggregate. If such insurance is written on a claim made basis, the retrospective date shall be prior to the start of the work under the Contract Documents. CALL ONE and all subcontractors agree to maintain such coverage for three (3) years after final acceptance of the work by the Village or such longer period as the Contract Documents may require. Renewal policies during this period shall maintain the same retroactive date.
- 9.10 Any deductibles or self-insured retentions shall be the sole responsibility of the Insured. At the option of the Village, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the Village, its officers, officials, employees and volunteers; or CALL ONE shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.
- 10. COPYRIGHT/PATENT INFRINGEMENT**
- 10.1 CALL ONE agrees to indemnify, defend, and hold harmless the Village against any suit, claim, or proceeding brought against the Village for alleged use of any equipment, systems, or services provided by CALL ONE that constitutes a misuse of any proprietary or trade secret information or an infringement of any patent or copyright.

11. COMPLIANCE WITH OSHA STANDARDS

- 11.1 Equipment supplied to the Village must comply with all requirements and standards as specified by the Occupational Safety and Health Act. All guards and protectors as well as appropriate markings will be in place before delivery. Items not meeting any OSHA specifications will be refused.

12. CERCLA INDEMNIFICATION

- 12.1 In the event this is a contract that has environment aspects, CALL ONE shall, to the maximum extent permitted by law, indemnify, defend, and hold harmless the Village, its officers, employees, agents, and attorneys from and against any and all liability, including without limitation, costs of response, removal, remediation, investigation, property damage, personal injury, damage to natural resources, health assessments, health settlements, attorneys' fees, and other related transaction costs arising under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, 42 U.S.C.A. Sec. 9701, et seq., as amended, and all other applicable statutes, regulations, ordinances, and under common law for any release or threatened release of the waste material collected by CALL ONE, both before and after its disposal.

13. CAMPAIGN DISCLOSURE

- 13.1 Any contractor, consultant or vendor entering into an agreement with the Village shall be required to submit an executed Campaign Disclosure Certificate, attached hereto.
- 13.2 The Campaign Disclosure Certificate is required pursuant to the Village of Downers Grove Council Policy on Ethical Standards and is applicable to those campaign contributions made to any member of the Village Council.
- 13.3 Said Campaign Disclosure Certificate requires any individual or entity to disclose campaign contributions, as defined in Section 9-1.4 of the Election Code (10 ILCS 5/9-1.4), made to current members of the Village Council within the five (5) year period preceding the date of the contract.
- 13.4 By signing the contract, CALL ONE agrees to refrain from making any campaign contributions as defined in Section 9-1.4 of the Election Code (10 ILCS 5/9-1.4) to any Village Council member and any challengers seeking to serve as a member of the Downers Grove Village Council.

14. SUBLETTING OF CONTRACT

- 14.1 No contract awarded by the Village shall be assigned or any part sub-contracted without the written consent of the Village Manager. In no case shall such consent relieve CALL ONE from their obligation or change the terms of the contract.

15. TERM OF CONTRACT

- 15.1 This contract may be extended no more than twice for subsequent annual periods (two annual extensions) by mutual agreement of both parties, providing such agreement complies with

Village purchasing policies and the availability of funds.

16. TERMINATION OF CONTRACT

16.1 The Village further reserves the right to terminate the whole or any part of this contract, upon ten (10) days' written notice to CALL ONE, in the event of default by CALL ONE. Default is defined as failure of CALL ONE to perform any of the provisions of this contract or failure to make sufficient progress so as to endanger performance of this contract in accordance with its terms. In the event that CALL ONE fails to cure the default upon notice, and the Village declares default and termination, the Village may procure, upon such terms and in such manner as the Village may deem appropriate, supplies or services similar to those so terminated. CALL ONE shall be liable for any excess costs for such similar supplies or services unless acceptable evidence is submitted to the Village that failure to perform the contract was due to causes beyond the control and without the fault or negligence of CALL ONE. Any such excess costs incurred by the Village may be set-off against any monies due and owing by the Village to CALL ONE.

17 BILLING & PAYMENT PROCEDURES

17.1 Payment will be made upon receipt of an invoice referencing Village purchase order number. Once an invoice and receipt of materials or service have been verified, the invoice will be processed for payment in accordance with the Village payment schedule. The Village will comply with the Local Government Prompt Payment Act, 50 ILCS 505/1 et seq., in that any bill approved for payment must be paid or the payment issued to CALL ONE within 70 days of receipt of a proper bill or invoice. If payment is not issued to the CALL ONE within this 70 day period, an interest penalty of 1.0% of any amount approved and unpaid shall be added for each month or fraction thereof after the end of this 70 day period, until final payment is made.

17.2 The Village shall review in a timely manner each bill or invoice after its receipt. If the Village determines that the bill or invoice contains a defect making it unable to process the payment request, the Village shall notify CALL ONE requesting payment as soon as possible after discovering the defect pursuant to rules promulgated under 50 ILCS 505/1 et seq. The notice shall identify the defect and any additional information necessary to correct the defect.

17.3 Please send all invoices to the attention of Village of Downers Grove, Accounts Payable, 801 Burlington, Downers Grove, IL. 60515.

18. RELATIONSHIP BETWEEN CALL ONE AND THE VILLAGE

18.1 The relationship between the Village and CALL ONE is that of a buyer and seller of professional services and it is understood that the parties have not entered into any joint venture or partnership with the other.

19. STANDARD OF CARE

19.1. Services performed by CALL ONE under this Agreement will be conducted in a manner consistent with that level of care and skill ordinarily exercised by members of the profession

currently practicing in the same locality under similar conditions. No other representations express or implied, and no warranty or guarantee is included or intended in this Agreement, or in any report, opinions, and documents or otherwise.

19.2 If CALL ONE fails to meet the foregoing standard, CALL ONE will perform at its own cost, and without reimbursement from the Village, the professional services necessary to correct errors and omissions caused by CALL ONE's failure to comply with the above standard and reported to CALL ONE within one (1) year from the completion of CALL ONE's services.

19.3 For Professional Service Agreements (i.e. Engineer, Consultant): Project site visits by CALL ONE during construction or equipment installation or the furnishing of Project representatives shall not make CALL ONE responsible for: (i) constructions means, methods, techniques, sequences or procedures; (ii) for construction safety precautions or programs; or (iii) for any construction contactor(s') failure to perform its work in accordance with contract documents.

20. GOVERNING LAW

20.1 This Agreement will be governed by and construed in accordance with the laws of the State of Illinois without regard for the conflict of laws provisions. Venue is proper only in the County of DuPage and the Northern District of Illinois.

21. SUCCESSORS AND ASSIGNS

21.1 The terms of this Agreement will be binding upon and inure to the benefit of the parties and their respective successors and assigns; provided, however, that neither party will assign this Agreement in whole or in part without the prior written approval of the other. CALL ONE will provide a list of key staff, titles, responsibilities, and contact information.

22. WAIVER OF CONTRACT BREACH

22.1 The waiver by one party of any breach of this Agreement or the failure of one party to enforce at any time, or for any period of time, any of the provisions hereof will be limited to the particular instance and will not operate or be deemed to waive any future breaches of this Agreement and will not be construed to be a waiver of any provision except for the particular instance.

23. AMENDMENT

23.1 This Agreement will not be subject to amendment unless made in writing and signed by all parties.

24. CHANGE ORDERS

24.1 The contract price is a "not-to-exceed" cost. At any time additional work is necessary or requested, and the not-to-exceed price is increased thereby, any change, addition or price increase must be agreed to in writing by all parties. The appropriate authorizing signature for the Village is the Village Manager.

25. SEVERABILITY OF INVALID PROVISIONS

25.1 If any provisions of this Agreement are held to contravene or be invalid under the laws of any state, country or jurisdiction, contravention will not invalidate the entire Agreement, but it will be construed as if not containing the invalid provision and the rights or obligations of the parties will be construed and enforced accordingly.

26. NOTICE

26.1 Any notice will be in writing and will be deemed to be effectively served when deposited in the mail with sufficient first class postage affixed, and addressed to the party at the party's place of business. Notices shall be addressed to the Village as follows:

**Village Manager
Village of Downers Grove
801 Burlington Ave.
Downers Grove, IL 60515**

And to CALL ONE:

As designated below

CALL ONE:

CALL ONE

Date: 5/21/13

Company Name

183 N. Wacker

ALAN R. BURKMAN & COMPANY

Email Address

Street Address of Company

John Burkman

Contact Name (Print)

Chicago IL 60606

City, State, Zip

312-681-2322

24-Hour Telephone

312-681-2322

Business Phone

Alan R

Signature of Officer, Partner or Sole Proprietor

312-681-2321

Fax

ALAN BURKMAN EUP OF DATA

Print Name & Title

ATTEST: If a Corporation

Signature of Corporation Secretary

VILLAGE OF DOWNERS GROVE:

Authorized Signature

ATTEST:

Title

Signature of Village Clerk

Date

Date