

EXHIBIT A
AGREEMENT

AUDITING SERVICES AGREEMENT
BETWEEN THE VILLAGE OF CARPENTERSVILLE
AND SIKICH LLC

THIS AUDITING SERVICES AGREEMENT ("**Agreement**") is made and entered into as of the 1st day of November, 2013 ("**Effective Date**"), by and between the **VILLAGE OF CARPENTERSVILLE**, an Illinois home rule municipal corporation ("**Village**"), and **SIKICH LLC**, an Illinois LLC ("**Auditor**").

IN CONSIDERATION OF, and in reliance upon, the recitals and the mutual covenants set forth in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Village and the Auditor mutually agree as follows:

SECTION ONE. RECITALS.¹

- A. The Village is an Illinois home rule municipal corporation.
- B. The Auditor is a licensed LLC in Illinois.
- C. On November 1, 2013, the Village issued a Professional Auditing Services Request for Proposals ("**RFP**"), requesting submission of proposals for the provision of audit services to the Village in accordance with certain specifications.
- D. The Village has reviewed the responses to the RFP, and has determined that the proposal submitted by the Auditor is the most appropriate for the provision of audit services to the Village.
- E. The Parties desire to enter into an agreement for the provision of audit services by the Auditor to the Village, in accordance with certain specifications.
- F. The Parties desire to enter into this Agreement in order to memorialize the Parties' respective rights and responsibilities.

SECTION TWO. DEFINITIONS.

A. Definitions. Whenever used in this Agreement, the following terms shall have the following meanings:

"Parties": The Village and the Auditor, collectively.

¹ All capitalized words and phrases throughout this Agreement shall have the meanings set forth in the preamble above and in Section 2 and in the other provisions of this Agreement.

"Person": Any natural individual, corporation, partnership, individual, joint venture, trust, estate, association, business, enterprise, proprietorship, or other legal entity of any kind, either public or private, and any legal successor, agent, representative, or authorized assign of the above, or other entity capable of holding title to, or any lesser interest in, real property.

"Requirements of Law": All applicable federal, state, and Village laws, statutes, codes, ordinances, resolutions, orders, rules, and regulations, as the same have been and may from time to time hereafter be amended.

B. Rules of Construction.

1. **Grammatical Usage and Construction.** In construing this Agreement, pronouns include all genders, and the plural includes the singular and vice versa.

2. **Headings.** The headings, titles, and captions in this Agreement have been inserted only for convenience and in no way define, limit, extend, or describe the scope or intent of this Agreement.

3. **Calendar Days.** Unless otherwise provided in this Agreement, any reference in this Agreement to "day" or "days" shall mean calendar days and not business days. If the date for giving of any notice required to be given, or the performance of any obligation, under this Agreement falls on a Saturday, Sunday, or federal holiday, then the notice or obligation may be given or performed on the next business day after that Saturday, Sunday, or federal holiday.

SECTION THREE. SELECTION OF, AND ACCEPTANCE BY, THE AUDITOR.

The Village shall, and does hereby, confirm the selection of the Auditor as the party designated to provide audit services to the Village in the manner set forth in this Agreement. The Auditor shall, and does hereby, accept the selection and agrees to provide audit services to the Village in the manner set forth in this Agreement.

SECTION FOUR. PROVISION OF AUDIT SERVICES.

A. General Provisions of Agreement. Except as specifically provided in the text of this Agreement, the Auditor shall, and does hereby agree to, provide audit services to the Village in the manner set forth in the following documents (collectively, "**Services**"):

1. The RFP, a copy of which is attached to this Agreement as **Exhibit A**;
and

2. The Auditor's Proposal, a copy of which is attached to this Agreement as **Exhibit B ("Auditor Proposal")**.

B. Conflicts.

1. **Conflict Between an Exhibit and Text of Agreement.** In the event of a conflict between an Exhibit and the text of this Agreement, the text of this Agreement shall control.

2. Conflict Between Exhibits. In the event of a conflict between the RFP and the Auditor Proposal, the RFP shall control.

C. Quality of Work. The Auditor shall provide, perform, and complete all of its obligations under this Agreement, or cause all of its obligations to be provided, performed and completed, in a proper and professional manner, consistent with the standards of professional practice and in full compliance with, and as required by or pursuant to, this Agreement.

D. Commencement of Investigation. The Auditor agrees to begin the examination of the Village's financial statements and financial operations as soon after the acceptance of this Agreement to the mutual convenience of the Village and the Auditor. The Auditor further agrees that it will conduct said examination with diligence as to insure its completion at the earliest possible date with such efficiency and thoroughness as is expected under Generally Accepted Auditing Standards. The examination and Auditor's report shall be completed and a report delivered to the Village prior to October 15 of each year during the Term. The Auditor shall file a State Comptroller's report prior to October 31 of each year of the Term.

E. Auditor's Working Papers. The Auditor agrees to adopt reasonable procedures as to insure the safe custody of its working papers. The Auditor agrees to make the working papers available for examination by the Village as requested, and to provide copies of such working papers at the request of the Village.

F. Corrections. The Auditor shall be responsible for the quality, technical accuracy, completeness and coordination of all reports, documents, data, information and other items and services under this Agreement. The Auditor shall promptly provide, to the satisfaction of the Village, all corrective services necessary as a result of the Auditor's errors, omissions, negligent acts, or failure to meet warranty.

SECTION FIVE. TERM.

This Agreement shall be in full force and effect from the Effective Date of this Agreement until the time that Auditor provides the Village a final and complete audit of the Village's 2018 fiscal year ("**Term**"), during which Term the Auditor shall provide Services for the fiscal years ending April 30, 2014, 2015, 2016, 2017, and 2018. The Village shall have right to terminate this Agreement in its sole discretion, provided that the Village provides the Auditor written notice not later than December 1 of the year following the fiscal year to be audited next by the Auditor pursuant to this Agreement. Notwithstanding anything contained in this Section to the contrary, the Village shall also have the right to terminate the Agreement upon failure of Auditor to meet any of its obligations under this Agreement.

SECTION SIX. COSTS AND FEES.

A. Agreement Amount. The total amount to be paid by the Village for all Services provided by the Auditor pursuant to this Agreement shall not exceed \$253,480 ("**Agreement Amount**"). The Auditor acknowledges and agrees that the Agreement Amount includes all applicable federal, state, and Village taxes of every kind and nature applicable to the services provided pursuant to this Agreement, as well as all taxes, contributions, and premiums for unemployment insurance, old age or retirement benefits, pensions, annuities, or similar benefits. All claims or rights to claim additional compensation by reason of the payment of any such tax, contribution, premium, cost, royalty, or fee are hereby waived and released by the Auditor.

B. Payment Schedule. The Parties acknowledge and agree that the Village shall pay the Auditor based on services rendered according to **Exhibit C**. Payment will be made upon receipt of progress billings with final payment made after receipt of the Annual Financial Report and other audits as applicable.

C. Changes in Costs and Fees. The Parties acknowledge and agree that all costs and fees specified in this Agreement or in Exhibit C shall not increase or decrease during the Term without the prior express written consent of each of the Parties.

D. Additional Services. The Auditor shall not implement or provide any services outside the scope of this Agreement or any Exhibit thereto prior to (1) delivery by the Auditor to the Village of a written proposal, including costs and fees, for the additional services, and (2) receipt of prior written consent by the Village of the proposal.

SECTION SEVEN. WAIVER OF BREACH.

A waiver by the Village or the Auditor of a breach by any party to this Agreement of any covenant or condition of this Agreement shall not impair the right of the party or parties not in default to avail itself or themselves of any subsequent breach thereof. Leniency, delay, or failure of the party or parties to insist upon strict performance of any agreement, covenant, or condition of this Agreement, or to exercise any right within this Agreement given in any one or more instances, shall not be construed as a waiver or relinquishment of any such agreement, covenant, condition, or right.

SECTION EIGHT. REPRESENTATIONS AND WARRANTIES.

A. By the Village. The Village represents and warrants to the Auditor as follows:

1. The Village has the authority and the legal right to make, deliver, and perform this Agreement, and has taken or will take all necessary actions and obtain all required consents and approvals to authorize the execution, delivery, and performance of this Agreement.

2. To the best of the knowledge of the legal representatives of the Village, the execution, delivery, and performance of this Agreement is not prohibited by any requirement of law or under any contractual obligation of the Village, will not result in a breach or default under any agreement to which the Village is a party or is bound, and will not violate any restriction, court order, or agreement to which the Village is subject.

3. The parties executing this Agreement on behalf of the Village and executing and delivering any other agreement or other item contemplated by this Agreement or otherwise required to fulfill the Village's obligations under this Agreement, have full authority to bind the Village to such obligations and to so act on behalf of the Village.

4. To the best of the knowledge of the legal representatives of the Village, as of the Effective Date of this Agreement, there are no actions or proceedings by or before any court, governmental commission, board or bureau or any other administrative agency pending or being threatened against the Village that would impair the Village's ability to perform its obligations under this Agreement.

B. By the Auditor. The Auditor represents and warrants to the Village as follows:

1. The Auditor has the authority and the legal right to make, deliver, and perform this Agreement, and has taken or will take all necessary actions and obtain all required consents and approvals to authorize the execution, delivery, and performance of this Agreement.

2. To the best of the knowledge of the legal representatives of the Auditor, the execution, delivery, and performance of this Agreement is not prohibited by any requirement of law or under any contractual obligation of the Auditor, will not result in a breach or default under any agreement to which the Auditor is a party or is bound, and will not violate any restriction, court order, or agreement to which the Auditor is subject.

3. The parties executing this Agreement on behalf of the Auditor and executing and delivering any other agreement or other item contemplated by this Agreement or otherwise required to fulfill the Auditor's obligations under this Agreement, have full authority to bind the Auditor to such obligations and to so act on behalf of the Auditor.

4. To the best of the knowledge of the legal representatives of the Auditor, as of the Effective Date of this Agreement, there are no actions or proceedings by or before any court, governmental commission, board or bureau or any other administrative agency pending or being threatened against the Auditor that would impair the Auditor's ability to perform its obligations under this Agreement.

SECTION NINE. INDEMNIFICATION.

The Auditor shall, without regard to the availability or unavailability of any insurance of the Village, indemnify the Village, and its respective officers, members, officials, employees, agents, attorneys, and representatives against, and hold the Village, and its respective officers, members, officials, employees, agents, attorneys, and representatives, harmless from, any and all third party lawsuits, claims, demands, damages, liabilities, losses, and expenses (including reasonable attorneys' fees and administrative expenses), that may be sustained or incurred as a result of or in connection with the Auditor's performance of, or failure to perform, its obligations under this Agreement, whether or not due or claimed to be due in whole or in part to the active, passive, or concurrent negligence or willful misconduct of the Auditor, but not including third party lawsuits, claims, demands, damages, liabilities, losses, and expenses (including reasonable attorneys' fees and administrative expenses) sustained or incurred solely as a result of the gross negligence or willful misconduct of the Village. The Auditor's obligations required pursuant to this Section 9 shall survive the termination of this Agreement.

SECTION TEN. ENFORCEMENT.

A. General. The Parties may, in law or in equity, by suit, action, mandamus, or any other proceeding, enforce this Agreement.

B. No Personal Liability. The Auditor acknowledges and agrees that no elected or appointed official, agent, representative, employee or attorney of the Village shall be personally liable, in law or in contract, to the Auditor as the result of the execution of this Agreement.

SECTION ELEVEN. GENERAL PROVISIONS.

A. Notices. All notices required or permitted to be given under this Agreement shall be given by the Parties by (i) personal delivery, (ii) deposit in the United States mail, enclosed in a sealed envelope with first class postage thereon, or (iii) deposit with a nationally recognized overnight delivery service, addressed as stated in this Section. The address of any Party may be changed by written notice to the other Parties. Any mailed notice shall be deemed to have been given and received within three days after the same has been mailed and any notice given by overnight courier shall be deemed to have been given and received within 24 hours after deposit. Notices and communications to the Parties shall be addressed to, and delivered at, the following addresses:

If to the Village: Village of Carpentersville
1200 L.W. Besinger Drive
Carpentersville, IL 60110
Attention: Village Manager

with a copy to: Holland & Knight LLP
131 S. Dearborn Street, 30th Floor
Chicago, IL 60603
Attention: Steven M. Elrod & Hart M. Passman

If to the Auditor: _____

Attention: _____

B. Time of the Essence. Time is of the essence in the performance of all terms and provisions of this Agreement.

C. Rights Cumulative. Unless expressly provided to the contrary in this Agreement, each and every one of the rights, remedies, and benefits provided by this Agreement shall be cumulative and shall not be exclusive of any other rights, remedies, and benefits allowed by law.

D. Binding Effect. This Agreement and the privileges, obligations, and provisions contained herein shall inure to the benefit of, and be binding upon, the Village, the Auditor, and their heirs, personal representatives, and successors.

E. Assignment. Neither the Village nor the Auditor shall assign this Agreement, in whole or in part, or any of its rights or obligations under this Agreement, without the prior express written approval of the other party, which approval may be withheld in the sole and unfettered discretion of the other party.

F. Consents. Unless otherwise provided in this Agreement, whenever the consent, permission, authorization, approval, acknowledgement, or similar indication of assent of any Party, or of any duly authorized officer, employee, agent, or representative of any Party, is required in this Agreement, the consent, permission, authorization, approval, acknowledgement, or similar indication of assent shall be in writing.

G. Documents. Notwithstanding the Auditor's possession of any documents, data, or information, in any form, prepared, collected, or received by the Auditor from the Village in connection with any or all of the Services to be performed under this Agreement ("**Village Documents**"), the Village Documents shall be and remain the exclusive property of the Village.

At the Village's request, or any time after termination of this Agreement, the Auditor shall cause any Village Documents or copies thereof to be promptly delivered to the Village in accordance with the Auditor's usual and customary practices for the retention, storage, and destruction of such Documents. This provision shall survive termination of the Agreement.

H. Governing Law. This Agreement shall be governed by, construed, and enforced in accordance with the internal laws, but not the conflicts of laws rules, of the State of Illinois.

I. Severability. It is hereby expressed to be the intent of the Parties that should any provision, covenant, agreement, or portion of this Agreement or its application to any Person or property be held invalid by a court of competent jurisdiction, the remaining provisions of this Agreement and the validity, enforceability, and application to any Person or property shall not be impaired thereby, but the remaining provisions shall be interpreted, applied, and enforced so as to achieve, as near as may be, the purpose and intent of this Agreement to the greatest extent permitted by applicable law.

J. Entire Agreement. This Agreement and the Exhibits thereto constitute the entire agreement of the Parties relative to the subject matter of this Agreement, expressly superseding all prior agreements and negotiations between and among the Parties, whether written or oral, relating to the subject matter of this Agreement.

K. Interpretation. This Agreement shall be construed without regard to the identity of the Party who drafted the various provisions of this Agreement. Moreover, each and every provision of this Agreement shall be construed as though all parties to this Agreement participated equally in the drafting of this Agreement. As a result of the foregoing, any rule or construction that a document is to be construed against the drafting party shall not be applicable to this Agreement.

L. Exhibits. Exhibits A, B, and C attached to this Agreement are, by this reference, incorporated into, and made a part of, this Agreement.

M. Amendments and Modifications. No amendment or modification to this Agreement shall be effective until it is reduced to writing and approved and executed by the Village and the Auditor in accordance with all applicable statutory procedures.

N. Changes in Laws. Unless otherwise provided in this Agreement, any reference to existing law shall be deemed to include any modifications of, or amendments to, existing law that may occur in the future.

O. No Third Party Beneficiaries. No claim as a third party beneficiary under this Agreement by any person, firm, or corporation shall be made, or be valid, against the Village or the Auditor.

P. Counterpart Signatures. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the Effective Date.

ATTEST:

Theresa Wilde
Village Clerk

VILLAGE OF CARPENTERSVILLE

By: J. Mark Rooney
Village Manager

ATTEST:

[Signature]
Its: Manager

[AUDITOR]

By: J. R. Sin
Its: PARTNER

EXHIBIT A

FEE PROPOSAL

Fiscal year Ended April 30,

<u>BASE PROPOSAL:</u>	<u>2014</u>	<u>2015</u>	<u>2016</u>	<u>2017</u>	<u>2018</u>
* Preparation of the Comprehensive Annual Financial Report (15)	<u>\$35,300</u>	<u>\$36,400</u>	<u>\$37,500</u>	<u>\$39,000</u>	<u>\$40,600</u>
* TIF Assurance Letters (2)	<u>4,000</u>	<u>4,100</u>	<u>4,200</u>	<u>4,400</u>	<u>4,600</u>
* Single Audit Report (If necessary)	<u>2,800</u>	<u>2,900</u>	<u>3,000</u>	<u>3,100</u>	<u>3,200</u>
TOTAL BASE PROPOSAL FEE	<u>42,100</u>	<u>43,400</u>	<u>44,700</u>	<u>46,500</u>	<u>48,400</u>
*specific fees included in base proposal					

ADDITIONAL SERVICE:

Preparation and filing of Annual Financial Report to State Comptroller	<u>950</u>	<u>980</u>	<u>1,010</u>	<u>1,050</u>	<u>1,090</u>
Preparation and filing of IDOI Fire and Police Pension Reports	<u>4,400</u>	<u>4,500</u>	<u>4,600</u>	<u>4,800</u>	<u>5,000</u>
TOTAL FEE:	<u>\$47,450</u>	<u>\$48,880</u>	<u>\$50,310</u>	<u>\$52,350</u>	<u>\$54,490</u>

AUDIT HOURS SUMMARY

Partner	<u>70</u>	<u>70</u>	<u>70</u>	<u>70</u>	<u>70</u>
Manager	<u>70</u>	<u>70</u>	<u>70</u>	<u>70</u>	<u>70</u>
Staff	<u>320</u>	<u>320</u>	<u>320</u>	<u>320</u>	<u>320</u>
Clerical	<u>25</u>	<u>25</u>	<u>25</u>	<u>25</u>	<u>25</u>
Total Hours	<u>485</u>	<u>485</u>	<u>485</u>	<u>485</u>	<u>485</u>

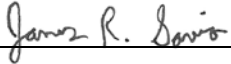
ADDITIONAL SERVICE RATES

Partner	<u>282</u>	<u>290</u>	<u>299</u>	<u>311</u>	<u>324</u>
Manager	<u>182</u>	<u>187</u>	<u>193</u>	<u>201</u>	<u>209</u>
Staff	<u>129</u>	<u>133</u>	<u>137</u>	<u>142</u>	<u>148</u>
Clerical	<u>106</u>	<u>109</u>	<u>112</u>	<u>117</u>	<u>122</u>

Firm Name: Sikich LLP

Address: 1415 W. Diehl Road, Suite 400
Naperville, IL 60563

Web Page: www.sikich.com

Signature: 

Printed Name: James R. Savio

Title: Partner

Email: jsavio@sikich.com

Date: November 29, 2013