

**RESOLUTION AUTHORIZING THE EXECUTION OF A CONTRACT WITH THE  
BLACKBOARD CONNECT, INC.**

WHEREAS, the Village of Barrington Hills and The Blackboard Connect, Inc., a Delaware corporation (the "Company") desire to enter into a Service Agreement ("Agreement") for the Company to provide certain emergency communication services to the Village; and

WHEREAS, pursuant to 65 ILCS 5/2-2-12, the Village may enter into contracts; and

WHEREAS, there has been the presentation and examination of the Agreement between the Company and the Village to the Village Board of Trustees on \_\_\_\_\_, 2010.

NOW, THEREFORE BE IT RESOLVED by the President and the Board of Trustees of the Village of Barrington Hills, Cook, Kane, Lake, and McHenry Counties, Illinois, as a home rule municipality the following:

**Section One** The Village President is hereby authorized to execute the Agreement with the Company, substantially on the terms set forth in the copy attached hereto and made a part hereof as Exhibit A with such modifications as may be deemed necessary or desirable by the Village President and the Village Attorney.

**Section Two** If any part or provision of this Resolution shall be held or deemed to be invalid, such invalidity shall not have the affect of rendering another part or provision of this Resolution invalid.

**Section Three** This Resolution shall be in full force and affect from and after its passage and approval as provided by law.

APPROVED THIS \_\_\_\_\_ day of \_\_\_\_\_, 2010.

AYES: \_\_\_\_\_; NAYS: \_\_\_\_\_; ABSENT: \_\_\_\_\_.

\_\_\_\_\_  
Village President

ATTEST:

\_\_\_\_\_  
Village Clerk

**EXHIBIT A**

CONNECT CTY-AGREEMENT

**SERVICES AGREEMENT**

This SERVICES AGREEMENT (this "Agreement") dated June 11, 2010, is entered into between the Village of Barrington Hills, Illinois (the "Customer") and Blackboard Connect Inc., a Delaware corporation and wholly-owned subsidiary of Blackboard Inc. ("Blackboard Connect") (collectively, the "Parties" and individually, the "Party"), whereby the Customer wishes to utilize the *Blackboard Connect Service* (the, "Service") subject to and in accordance with the following terms and conditions, and other good and valuable consideration, the receipt of which are hereby acknowledged. Accordingly, the Parties hereby agree as follows:

**1. Service.**

- a. **Unlimited Messaging.** Blackboard Connect shall provide the Customer only, with the Service to send unlimited any-time messages to 1,500 households, businesses, and other related individuals within the Customer's jurisdiction (each, a "Recipient," and collectively, the "Recipients"). The Customer may purchase additional modules from Blackboard Connect at the then-current pricing and terms by issuing a purchase order (or other accepted ordering method) to Blackboard Connect for such module. Any such additional modules shall be governed by the terms and conditions of this Agreement.
- b. **Database.** Blackboard Connect will provide the Customer with one (1) phone number per physical address to the extent that such numbers are available (the "Blackboard Connect Data"). The Customer may provide up to two (2) phone numbers and two (2) email addresses per Recipient (the "Customer Data"), provided, that, for business Recipients, the secondary phone numbers must not tie up more than one phone line of a multi-line business. The Customer Data, the Blackboard Connect Data, and the data input by individuals via the CTY Web Portal ("Portal Data"), may hereinafter be collectively referred to as the "Recipient Data". Telephone messages may only be sent to telephone numbers from the North American Numbering Plan from the 48 contiguous United States, Alaska and Hawaii. Additional charges incurred by the Recipient for messages, including but not limited to text message fees or data fees shall be payable by the Customer or Recipient.
- c. **Training, Customer Support, Maintenance.** Blackboard Connect will provide training to educate all users on how to send messages, receive reports, and other aspects of the operation of the Service. Blackboard Connect will also provide the Customer with unlimited maintenance and support (Customer care and technical support), on a twenty-four (24) hour, seven (7) days a week basis, throughout the life time of the Agreement. The Customer will designate qualified personnel to act as liaisons between the Customer and Blackboard Connect respecting technical, administrative and content matters, and providing accurate and current contact information.
- d. **Geographic Information System (GIS) Mapping.** The Service will include a geo-based mapping system that allows the Customer to create specific call lists for certain areas of the Customer's jurisdiction using criteria such as radius, street, zip code.
- e. **Remote Launching Capability.** The Service allows the Customer to access and use the Service from anywhere in the U.S. via an Internet connection and/or a phone.
- f. **CTY Web Portal.** If Customer elects to link to and use the web interface provided by Blackboard Connect, the provisions in this Section 1.f. shall apply. The Customer agrees that the CTY Web Portal is for the sole purpose of enabling Recipients to update and add their contact information. If the Customer elects to use the CTY Web Portal, Blackboard Connect grants for the period of the Term (as defined below) to Customer a limited non-exclusive, worldwide, royalty-free license to place a digital image of the Blackboard Connect *Connect*-CTY Sign-up Logo, which will be presented to Customer (the "Image"), on an appropriate page of the Customer's Internet site, located at a URL to be provided by the Customer, with a hyperlink to Blackboard Connect's CTY Web Portal site (the "Link") (the "CTY Web Portal"). The Customer may not use any other trademark or service mark in connection with the Image without the prior written approval of Blackboard Connect. The Link may not be used in any manner to provide a user with access to the CTY Web Portal via any framing, layering or other techniques now known or hereafter developed that permit display of the CTY Web Portal with any materials posted by Customer or any party other than Blackboard Connect. Customer may not allow the Image to be linked to any other web site. The Customer may not use the Image in any manner not permitted hereunder, modify the Image, or copy, or create a derivative work from, the "look and feel" of the Image. Blackboard Connect will have the right to review all uses of the Image for quality control purposes and proper compliance with guidelines, as they may be modified from time to time. Blackboard Connect reserves the right to modify permission to use the Image and/or the Link at any time.

2. **Term; Termination.** This Agreement will commence on June 1, 2010 (the "Service Start Date") and will end three (3) years thereafter (the "Term"). Notwithstanding the foregoing, if Customer inputs any information or other data into Blackboard Connect's systems prior to the Service Start Date in order to prepare for the start of the Service and/or sends any messages prior to the Service Start Date, the Customer expressly accepts that the terms and conditions of this Agreement will also apply during that earlier period.

- a. **Termination for Convenience.** Either Party can terminate the Agreement for convenience on the one year anniversary of the Service Start Date, and each one year anniversary thereafter during the Initial Term, by giving the other Party at least thirty (30) days prior written notice to terminate.
- b. **Termination with Cause.** Either Party may terminate this Agreement in the event of a material breach by the other Party, which breach remains uncured for thirty (30) days following written notice to the breaching Party. In the event of a termination by Customer for an uncured material breach, the Customer will receive a prorated refund of the annual Service Fee calculated from the date of termination to the end of the applicable annual period. This Agreement can be terminated immediately by Blackboard Connect for non-payment.

- c. **Effect of Termination.** In the event of termination or expiration of this Agreement, the Customer will: (i) immediately discontinue access to and/or use of the Service under this Agreement; (ii) pay to Blackboard Connect all amounts due and payable under this Agreement; and (iii) return all documentation and related training materials to Blackboard Connect within a reasonable time at the Customer's cost and immediately disable any embedded link(s) to the Web Portal. Any termination of this Agreement will not affect any rights or liabilities of either Party that accrued prior to such termination. Sections 2, 3, 4, 6, 7, 8 and 9 will survive the expiration or termination of this Agreement for any reason.
3. **Fees.** In consideration for the use of the Service during the Initial Term, the Customer will pay Blackboard Connect an annual Service Fee of \$3,000.00 (i.e., \$2.00 x 1,500 Recipients and the annual Support Fee will be waived). The first year's Service Fee will be invoiced upon execution of the Agreement and is due within 30 days of invoicing. Thereafter, the Service Fee will be invoiced on an annual basis. For subsequent Renewal Terms beyond the expiration of the Initial Term, the Service Fee shall be at Blackboard Connect then-current pricing.
- a. Fees are paid at the beginning of each annual period and are due in no event later than thirty (30) days after the date of an invoice from Blackboard Connect. Late payments may be assessed at the lesser of 1.5% per month or the maximum allowable rate under applicable law.
- b. The fees hereunder do not include any sales, use, or other taxes, government fees or levies on the provision of the Service. Customer will be responsible for payment of all applicable taxes, fees or levies, unless the Customer is exempt therefrom and provides Blackboard Connect with a copy of Customer's tax exemption certificate or number. All payments to Blackboard Connect shall be made without any deduction or withholding, unless required by applicable law in which case the Customer shall ensure that the net amount actually received by Blackboard Connect from the Customer equals the full amount Blackboard Connect would have received had no such deduction or withholding been required.
4. **Confidentiality.** Each Party agrees to maintain the confidentiality of the other Party's confidential information with no less than a reasonable degree of care. Blackboard Connect "Confidential Information" shall include, but is not limited to, the Service and all documents relating to the provision of Service, the Blackboard Connect Data, Portal Data, member pages of its website, training guides and manuals. Each Party agrees to limit access to the Confidential Information to those of its employees and agents who have a business need for the access and who have been clearly informed of their obligation to maintain the confidential, proprietary and/or trade secret status of such Confidential Information. Blackboard Connect does not rent, trade, or sell Recipient Data received from Customer to third parties, and will only disclose information as necessary to comply with applicable laws and government orders or to operate or maintain the Service.
5. **Privacy Policy and Acceptable Use Policy.** The Customer agrees to comply with the then current Acceptable Use Policy and Privacy Policy (collectively, the "Policies"), which Blackboard Connect reserves the right to modify, from time to time, effective five (5) days after such modified Policies are posted at the relevant link (which can be found at the Blackboard Connect Website located at [www.blackboardconnect.com](http://www.blackboardconnect.com)), such posting to constitute effective notice of changes. In the event of an express conflict between the terms of the Agreement and the terms of the Policies, the terms of the Agreement will prevail.
6. **Representations and Obligations.** The Customer represents and warrants that: (i) it will comply with all applicable laws, regulations and contracts in use of the Service and with respect to the content and transmission of its messages sent using the Service; (ii) it will use best efforts in providing accurate and complete Customer Data; (iii) it has met all legal, regulatory and contractual requirements in providing, and using, the Customer Data, in connection with the Service, including, but not limited to, obtaining requisite consents to call a Recipient; (iv) it will maintain the confidentiality of its password and account information, and agrees to notify Blackboard Connect in the event of an actual or suspected unauthorized access to its account, or if it loses its account information; (v) it will have in place primary safety and emergency response procedures in the event of an emergency (including without limitation, notifying 911 or equivalent, fire, police, emergency medical, and public health, collectively, "First Responder Services") which do not utilize the Service; (vi) it will not subject Blackboard Connect to any regulations or laws due to the import of certain Recipient Data; (vii) it will not send messages to Recipients who have opted out of receiving messages from the Customer; (viii) if Customer licenses data from Blackboard Connect, it will only use such data to contact individuals pursuant to the use of the Service and is prohibited from downloading or making copies of such data; and (ix) it will not use the Service in combination with products or services not provided by Blackboard Connect or in a manner for which the Service was not designed, which would cause the Service to infringe on a third party intellectual property right. The Customer agrees to defend, indemnify and hold harmless Blackboard Connect against any damages, losses, liabilities, settlements, and expenses (including without limitation, costs and reasonable attorneys' fees) in connection with any claim or action that arises from the content or effects of any messages the Customer distributes using the Service or the Customer's use of the Service.
7. **Limitation of Liability.** In no event will Blackboard Connect, its officers, employees, representatives or licensors be liable to Customer for any indirect, punitive, reliance, special, consequential, exemplary, or other similar damages of any kind or nature whatsoever, suffered by the Customer or any third party (including without limitation, business interruption, downtime, or any use of, or failure to use the Service, or any loss of business, contracts, profits, anticipated savings, goodwill or revenue, or any loss or corruption of data), arising out of this Agreement, the Service, or the transactions contemplated hereby, even if a Party has been advised of the possibilities of such damages or should have foreseen such damages. Blackboard Connect, its officers and employees will not be liable for any damages or injury with respect to the performance of the Service, including, but not limited to, any failure of performance, error, omission, defect, delay, computer virus, or line failure, interruptions or disruptions in the services contemplated under this Agreement caused by or resulting from any act, omission or condition beyond the reasonable control of Blackboard Connect, whether or not foreseeable or identified, including but not limited to, transmission errors, or corruption or

security of information carried over telecommunication lines, failure of digital transmission links, hostile network attacks or network congestion, or acts of God, acts of war, governmental regulations, public utilities or telecommunication providers, shortage of equipment, materials or supplies, fire, power failure, earthquakes, severe weather, floods or other natural disaster or the Customer's or any third party's applications, hardware, software or communications equipment or facilities, unless same results from the intentional or willful acts of Blackboard Connect. Blackboard Connect is not responsible to the Customer, any of Customer's Recipients or any other third party regarding the accuracy or validity of the data entered through the CTY Web Portal, and Blackboard Connect makes no warranty that the CTY Web Portal will be error-free or that access thereto will be uninterrupted. Under no circumstances will the aggregate liability of Blackboard Connect to the Customer or any third party arising out of or related to this Agreement or the provision of the Service, exceed the aggregate fees paid to Blackboard Connect under this Agreement during the 12 month period immediately prior to the event, act or omission giving rise to such liability, regardless of whether any action or claim is based on warranty, indemnification, contract, tort or otherwise. The existence of multiple claims will not enlarge this limit. The foregoing limitations of liability are intended to apply without regard to whether other provisions of this Agreement have been breached or have proven ineffective. Nothing contained in the foregoing limits or excludes the liability of Blackboard Connect for liability which cannot be excluded by law. Notwithstanding anything contained herein to the contrary, the Customer shall be responsible for all claims and damage resulting from misuse of the Service by the Customer or its users including reimbursement of any expenses incurred by Blackboard Connect in defending claims arising from such misuse. The Parties acknowledge and agree that the fees, limitations of liability and remedies reflect the allocation of risk between the Parties, and that Sections 7 and 8 are essential elements of the basis of the bargain between the Parties and that in its absence, the economic terms of this Agreement would be substantially different.

8. **Limited Warranty.** THE SERVICE IS PROVIDED "AS IS" AND ON AN "AS AVAILABLE" BASIS AND, TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW, BLACKBOARD CONNECT EXPRESSLY DISCLAIMS ALL OTHER REPRESENTATIONS AND WARRANTIES RELATING TO THE SERVICE, EXPRESS, IMPLIED OR STATUTORY, INCLUDING BUT NOT LIMITED TO, THE WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, DATA ACCURACY, SATISFACTORY QUALITY, NON-INFRINGEMENT, AND/OR QUIET ENJOYMENT. NEITHER BLACKBOARD CONNECT NOR ITS LICENSORS WARRANT THAT THE FUNCTIONS OR INFORMATION CONTAINED IN THE SERVICE WILL MEET ANY REQUIREMENTS OR NEEDS CUSTOMER MAY HAVE, OR THAT THE SERVICE WILL OPERATE ERROR FREE OR WITHOUT INTERRUPTION; AND BLACKBOARD CONNECT AND ITS LICENSORS MAKE NO GUARANTEE OF ACCESS TO OR OF ACCURACY OF THE CONTENT CONTAINED IN OR ACCESSED THROUGH THE SERVICE. In the event of the Service's failure to comply with this Agreement, the Customer's sole remedy shall be to terminate the Agreement. The Customer acknowledges and agrees that the Service is not intended, nor designed, for use in high risk activities, or in any situation where failure of the Service could lead to death, personal injury, or damage to property, or where other damage could result if an error occurred and the parties further agree that, to the extent not prohibited by applicable law, Blackboard Connect shall not be liable for any death, personal injury or damage to property. The Customer also acknowledges and agrees that the primary recourse of the Customer in the event of any actual or potential threat to person or property should be to contact First Responder Services and that the Service is not intended to replace First Responder Services, or to be used for communicating with, or replace notification to, or interoperate directly with, First Responder Services, which should have already been notified and deployed prior to using the Service.
9. **Miscellaneous.** The Customer acknowledges and agrees that the, Blackboard Connect Data, the Blackboard Connect Confidential Information and all other materials pertaining to the use of the Service are not purchased or developed with Customer funds. Accordingly, nothing in this Agreement grants or transfers to the Customer any ownership rights in the foregoing materials, the Service, or the Image and the goodwill associated therewith. Each Party may seek any relief, including equitable relief provided under law. The Customer is expressly prohibited from reproducing, modifying, duplicating, copying, making derivative works, publicly displaying, or otherwise exploiting, in whole or in part, the member pages of the Blackboard Connect website, without the express written permission of Blackboard Connect. This Agreement will be governed and interpreted in accordance with the governing law of the state of the Customer. In addition to any other relief awarded, the prevailing party in any action arising out of this Agreement shall be entitled to its reasonable attorneys' fees and costs. Failure by either Party to enforce any provision of this Agreement will not be deemed a waiver of future enforcement. In the event that any provision of this Agreement is invalid under applicable law, the remainder of this Agreement will continue in full force and effect, and the Parties will replace the invalid provision with one that, as much as possible, reflects the original intentions of the Parties and is valid under applicable law. Blackboard Connect is providing a service to the Customer as an independent contractor. No provisions of this Agreement are intended or shall be construed to confer upon or give to any person or entity other than Blackboard Connect or Customer, any rights, remedies or other benefits under or by reason of this Agreement. All notices to Blackboard Connect must be in writing and may be delivered in person or by courier, sent by facsimile, or mailed postage prepaid, return receipt requested to the attention of the Legal Department at the address on the signatory page. Notices to the Customer must be in writing and may be delivered in person or by courier, sent by facsimile, or mailed by certified or registered mail, postage prepaid, return receipt requested to the address on the signature page and to the attention of the signatory. Any notices will be effective upon receipt by the Party receiving such notice. Neither Party may assign this Agreement without the other Party's prior written consent, provided, that Blackboard Connect may assign this Agreement without the Customer's prior consent to (i) a parent, subsidiary or affiliate of Blackboard Connect or (ii) any entity or successor that acquires all or substantially all of the business, stock, or assets of Blackboard Connect. Any assignment made in conflict with this provision shall be void subject to the foregoing, and this Agreement shall benefit and bind the permitted successors and assigns of the Parties. The Agreement may be executed in counterparts and a signature on a copy of this Agreement received by either Party by facsimile is binding upon the other Party as an original. This Agreement expresses the

complete and final understanding of the Parties with respect to the subject matter hereof, and supersedes all prior communications between the Parties, whether written or oral with respect to the subject matter hereof. Except as stated herein, this Agreement may be amended only in writing that refers explicitly to this Agreement and that is signed by an authorized representative of both Parties. By signing below, the Customer represents and warrants that it has read and understands all applicable parts of this Agreement, including the Policies, and that person who has signed this Agreement for the Customer is authorized to execute and deliver this Agreement on its behalf.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the last date of execution of this Agreement.

VILLAGE OF BARRINGTON HILLS	BLACKBOARD CONNECT INC.
Authorized Signatory: _____	Authorized Signatory: _____
Name & Title: _____	Name & Title: _____
Execution Date: _____	Execution Date: _____
Address: Village of Barrington Hills 112 Algonquin Road Barrington Hills, IL 60010	Address: Blackboard Inc. 650 Massachusetts Ave NW, 6th floor Washington DC 20001-3796
Contact Person: <u>Mike Murphy, Police Chief</u>	Contact: <u>Ozie Malikyar, Contract Specialist</u> 202-463-4860 ext. 2574 Fax: 8184500425 Email: <a href="mailto:Ozie.malikyar@blackboard.com">Ozie.malikyar@blackboard.com</a>
Telephone Number: <u>(847) 551-3006</u>	
Fax Number: _____	
Email Address: <u>bhpdchief@vbhpd.net</u>	

## Contract Instructions – Renewal

Thank you and welcome to the *Blackboard Connect* service. To complete processing of your contract, please follow the three steps, below:

Step 1. Fax a signed copy of the attached Services Agreement to (818) 450-0425.

Step 2. Choose “a” or “b” (YES or NO) below:

a) Do you wish to have an original, signed contract returned to you?  
If YES, check the box below and confirm the name of the addressee.

YES – please return an original, signed contract to:

Attention: \_\_\_\_\_

(b) If you do not require return of your original contract, a fully- executed copy will be returned to you by FAX. Please confirm the name of the addressee and provide your FAX number.

NO – a FAX copy is all I need. Please FAX a copy to:

Attention: \_\_\_\_\_

Fax Number: \_\_\_\_\_

Step 3. Mail your signed original(s)\* of the Services Agreement to:

Blackboard Connect Inc.  
Attn: Ozie Malikyar  
650 Massachusetts Ave NW  
6<sup>th</sup> Floor  
Washington, DC 20001

Note: If you requested in item #3 above that an original document be returned, please forward TWO signed originals of the Services Agreement. To receive a FAX copy only, send ONE signed original.

**Implementation begins upon receipt of a FAX copy of the signed Services Agreement!**  
Our Client Care department will then contact the appropriate parties at the client’s site to coordinate orientation. When the original contracts are received, we will promptly return one fully-executed contract copy of our contract for your records. If you have any questions, please contact:

Ozie Malikyar, Contract Specialist  
Tel: (202) 463-4860, ext. 2574  
Email: [Ozie.Malikyar@Blackboard.com](mailto:Ozie.Malikyar@Blackboard.com)



# INVOICE



Blackboard Connect Inc.  
 15301 Ventura Blvd.  
 Building B, Suite 300  
 Sherman Oaks, CA 91403  
 USA  
 Phone: 877/684-4411  
 FEIN (USA): 20-0597724

Invoice Date:	5/18/2009
Invoice:	1019741
Customer No:	317195
Payment Terms:	Net 30
Due Date:	06/17/2009

Village of Barrington Hills  
 Accounts Payable  
 112 Algonquin Road  
 Barrington Hills IL 60010  
 United States

**Please Remit Payments To:**  
 Blackboard Connect Inc.  
 Dept LA 22402  
 Pasadena CA 91185-2402  
 United States

Quantity	UOM	Product Code PO Number	Description	Net Amount
1.00	YR	BC-STND-CYNA	BB CONNECT SERVICE CYNA 6/1/2009 - 5/31/2010	3,000.00

Subtotal: 3,000.00  
 Sales Tax: 0.00  
**AMOUNT DUE: 3,000.00 USD**

This invoice reflects your cost for the third year of a 3-year term under the Services Agreement.

**VILLAGE OF BARRINGTON HILLS**  
**EMERGENCY TELEPHONE SYSTEM BOARD**  
 112 ALGONQUIN ROAD  
 BARRINGTON HILLS, IL 60010-5199

**BLACKBOARD CONNECT, INC.**

THREE THOUSAND DOLLARS & 00/100

**HARRIS.** Harris N.A.

Inv# 1019741

2014

2-2566-710

6/22/09

3,000.00

*[Signature]*

**NOT NEGOTIABLE**

Please ensure checks are made payable to Blackboard Connect Inc. and list entire invoice number on remittance to ensure proper application of payment. Failure to comply with this request may result in returned payment.