

A RESOLUTION AUTHORIZING THE EXECUTION OF A SOFTWARE PURCHASE AGREEMENT BETWEEN THE VILLAGE OF CAMPTON HILLS, KANE COUNTY, ILLINOIS AND TKB ASSOCIATES, INC., REGARDING A LASERFICHE DOCUMENT MANAGEMENT SYSTEM

WHEREAS, the Village of Campton Hills, Kane County, Illinois (the "*Village*") is a duly organized and existing municipal corporation created under the provisions of the laws of the State of Illinois and under the provisions of the Illinois Municipal Code, as from time to time supplemented and amended; and

WHEREAS, TKB Associates, Inc. ("*TKB*") is a Corporation that provides Laserfiche Document Management Systems to its customers, including over 120 government accounts in the Northern Illinois area; and

WHEREAS, the Village has requested TKB to provide a Laserfiche Document Management System to the Village, and TKB has agreed to provide said System to the Village pursuant to a Master Services Agreement (the "*Agreement*"). *See Master Services Agreement, attached hereto as Exhibit A*; and

WHEREAS, the Village President and Board of Trustees of the Village of Campton Hills (the "*Corporate Authorities*") deem it advisable and in the best interest of the residents of the Village to enter into the Agreement with TKB.

NOW, THEREFORE, BE IT ORDAINED by the President and Board of Trustees of the Village of Campton Hills, Kane County, Illinois, as follows

Section 1. That the above recitals and legislative findings are found to be true and correct and are hereby incorporated herein and made a part hereof, as if fully set forth in their entirety.

Section 2. That the Agreement between TKB and the Village, a copy of which is attached hereto and made a part hereof as *Exhibit A*, is hereby agreed to and adopted by the Village.

Section 3. That the Agreement between TKB and the Village is hereby approved in substantially the form presented to the Village Board, and that the Village President is hereby authorized to execute the Agreement on behalf of the Village.

Section 4. That the officials and officers of the Village are further hereby authorized to undertake actions on the part of the Village as contained in the Agreement to complete satisfaction of the provisions, terms or conditions stated therein

Section 5. If any section, paragraph, clause or provision of this Resolution shall be held invalid, the invalidity thereof shall not affect any other provision of this Resolution.


Section 6. All ordinances, resolutions, motions or orders in conflict with this Resolution are hereby repealed to the extent of such conflict.

Section 7. This Resolution shall be in full force and effect upon its passage, approval, and publication in the manner provided by law.

Passed this 15th day of November 2022, pursuant to a roll call vote as follows:

	AYES	NAYES	ABSENT	ABSTAIN
Trustee Charles Cappell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Trustee Susan P George	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Trustee Jim McKelvie	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Trustee Mike Millette	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Trustee Ed Muncie	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Trustee Wendy K. White Eagle	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
President Michael Tyrrell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

APPROVED this 15th day of November, 2022


 Michael Tyrrell, Village President

(SEAL)

ATTEST: 
 Dorothea Stipetic, Deputy Village Clerk

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Passed this 15th day of November 2022, pursuant to a roll call vote as follows:

	AYES	NAYES	ABSENT	ABSTAIN
Trustee Charles Cappell	<u>X</u>	_____	_____	_____
Trustee Susan P George	_____	_____	<u>X</u>	_____
Trustee Jim McKelvie	<u>X</u>	_____	_____	_____
Trustee Mike Millette	<u>X</u>	_____	_____	_____
Trustee Ed Muncie	<u>X</u>	_____	_____	_____
Trustee Wendy K. White Eagle	_____	_____	<u>X</u>	_____
President Michael Tyrrell	<u>X</u>	_____	_____	_____

APPROVED this 15th day of November, 2022


Michael Tyrrell, Village President

(SEAL)

ATTEST: 
Dorothea Stipetic, Deputy Village Clerk

SERVICES AGREEMENT FOR INFORMATION TECHNOLOGY

THIS AGREEMENT entered into this 15th day of November, 2022 by the VILLAGE OF CAMPTON HILLS, 40W270 LaFox Rd, Suite B, Campton Hills, IL 60175, hereinafter called the VILLAGE, and TKB Associates, Inc., 9459 Enterprise Dr, Mokena, IL 60448, hereinafter called the CONSULTANT.

WITNESSETH: That in consideration of the mutual covenants and agreements hereincontained, the parties hereto do mutually agree as follows:

1. ENGAGEMENT OF CONSULTANT: The VILLAGE, acting pursuant to its vested authority, does hereby hire the CONSULTANT and the CONSULTANT agrees to perform Information Technology services as requested by the VILLAGE as more fully described, and on the terms, provided herein below. Denise Burchard, Village Administrator, or her designated representative will act as the liaison for the VILLAGE, and Jerry Breitbarth, or his designated representative, will act as liaison for the CONSULTANT for administration of this Agreement. This Agreement for Professional services can only be amended or revised by a written agreement signed by both parties.

The relationship of the CONSULTANT to the VILLAGE shall be that of an independent CONSULTANT rendering professional services. The CONSULTANT shall have no authority to execute contracts or to make commitments on behalf of the VILLAGE and nothing contained herein shall be deemed to create the relationship of employer and employee or principal and agent between the VILLAGE and the CONSULTANT.

2. CHARACTER AND EXTENT OF SERVICES: The CONSULTANT shall perform certain Information Technology services as requested. Such services generally include, but are not limited to, the following types of work:
 - a. Consulting
 - b. Project management
 - c. Implementation services
 - d. Training
 - e. Equipment installation and configuration
 - f. Application or equipment programming
 - g. Data conversion
 - h. Scanning

Specifically, the CONSULTANT is being retained to implement its Laserfiche Document Management Solution including its Laserfiche Software Assurance Plan (LSAP) coverage.

The CONSULTANT shall at all times observe and comply with applicable laws, ordinances, and regulations of the relevant federal, state, and local governments, including the VILLAGE, which may in any manner affect the preparation of proposals or the performance of the Agreement. The CONSULTANT shall obtain, at its own expense, all permits and licenses, if any, that may be required to operate the business of the CONSULTANT by federal, state, and

local regulations and laws.

3. CONSULTANT PROPOSAL 2041: Consultant agrees to provide its services pursuant to Proposal 2041, attached hereto as Exhibit "A" and by this reference incorporated herein. The CONSULTANT shall have no right to be paid for any work the scope of which is outside the terms of the Proposals or other written authorization from the VILLAGE. Services to be performed on a specific hourly rate basis shall only be performed upon authorization from the Village Administrator, VILLAGE Liaison or VILLAGE Project Manager.
4. ITEMS TO BE FURNISHED AND RESPONSIBILITY OF VILLAGE:
 - a. Provide full information as to VILLAGE requirements and scope of the Project.
 - b. Assist the CONSULTANT by placing at its disposal all necessary resources needed to complete services, access to data needed for each service, equipment, building or site access. CONSULTANT understands access to certain areas in Village building(s) may require supervision by VILLAGE staff, background checks and/or finger printing by the Village of Campton Hills Police Department prior to access in certain locations, and CONSULTANT shall comply with those requirements when applicable.
 - c. Examine all specifications, reports, estimates, specifications, drawings, proposals, project plans, and other work products presented by the CONSULTANT and render in writing decisions pertaining thereto within a reasonable time so as not to delay the work of the CONSULTANT.
 - d. Assign one Village Employee to be VILLAGE Liaison or VILLAGE Project Manager through the duration of the project.
5. COMPLETION TIMES: Each service will specify mutually agreeable completion times, and once completions are established in writing. the CONSULTANT shall be responsible for performing and completing the service within the time frames that are established. The CONSULTANT shall notify the liaison or VILLAGE immediately if or when the CONSULTANT becomes aware that a service cannot or may not be completed within the completion time(s) set forth in the project or this Agreement. If time is of the essence for a particular

service, the service shall state that fact, and the CONSULTANT shall be responsible for any damages that are caused by delays that nor caused by the VILLAGE or occurrences or factors that are reasonably outside the CONSULTANT'S CONTROL.

6. PROFESSIONAL FEES AND PAYMENT: The CONSULTANT may invoice the VILLAGE for the services only after they are completed and approved by the VILLAGE as specified in each Service. Payments will be made by the VILLAGE within sixty (60) days after receipt of invoice.
7. TERMINATION: The VILLAGE or CONSULTANT may terminate this Agreement subject to the terms of this section. In such event, the VILLAGE'S liability shall be limited to the value of the products delivered and service performed as stated in each Service. If no notice of termination is given, relationships and obligations created by this Agreement, unless otherwise expressly provided, shall be terminated upon completion of all applicable requirements of each individual Service.

The Village may, at any time by written order, require the CONSULTANT to stop all or part of the services required by this Agreement. Upon receipt of such an order the CONSULTANT shall immediately comply with its terms and take all steps to minimize the occurrence of costs allocable to the services covered by any order. The Village will pay for costs associated with suspension, only if they are reasonably necessary to protect against loss of the value of the services already preformed or other loss that might be caused to the VILLAGE be abruptly stopping the services. The CONSULTANT shall immediately notify the VILLAGE when additional services are necessary to protect against loss of the value of the services already preformed or other loss that might be caused to the VILLAGE be abruptly stopping the services and may provide those necessary services (but no more services than are necessary) after the stop work order unless the VILLAGE provides further notice that no further work shall be performed regardless of potential loss, in which case the CONSULTANT shall cease all work and shall not be liable for any damages associated with the loss of the value of the services already preformed or other loss that might be caused to the VILLAGE be abruptly stopping the services.

The Village reserves the right to terminate the whole or any part of this Agreement, upon ten (10) calendar days written notice to the CONSULTANT if the Village is dissatisfied with the services of the CONSULTANT, provided that the Village has previously notified the CONSULTANT of its dissatisfaction in writing stating the reasons therefore and allowing the CONSULTANT a minimum of thirty (30) days to adjust and meet the Village's expectations. The Village further reserves the right to cancel the whole or part of the Agreement immediately for cause, if the CONSULTANT fails to perform any of the provisions in the Agreement or fails to make delivery within the time stated, provided that notice is given in writing to the CONSULTANT of the default, and the CONSULTANT is given ten (10) days to cure the default or to begin curing the default and diligently continues to cure the default, if the default is of the nature that cannot be cured in such time. The CONSULTANT will not be liable to perform if situations arise by reason of acts of God or public enemy, acts of Village, fires, or floods or other occurrences that are reasonably beyond the control of the CONSULTANT, providing that the CONSULTANT proceeded with reasonable diligence prior to the acts of God or other occurrences beyond CONSULTANT's control.

The CONSULTANT reserves the right to terminate the whole or any part of this Agreement, upon ten (10) calendar days written notice to the Village if the Village fails to perform any of the provisions in the Agreement or to pay any monies due per the terms of each service provided that the CONSULTANT has previously notified the Village of its dissatisfaction in writing stating the reasons therefore and allowing the Village a minimum of thirty (30) days to adjust and meet the CONSULTANTS expectations. The Village will not be liable to perform if situations arise by reason of acts of God or public enemy, acts of Village, fires, or floods or other occurrences that are reasonably beyond the control of the VILLAGE, providing that the VILLAGE proceeded with reasonable diligence prior to the acts of God or other occurrences beyond VILLAGE's control.

Should any of the CONSULTANTS Key Personnel such as Project Managers, Engineers, Technicians, Programmers, Installers or any other key Information Technology professionals become unavailable to work on the project, and no permanent substitute personnel reasonably satisfactory to the VILLAGE is provided by the CONSULTANT within thirty (30) days, and/or no temporary replacement personnel is provided by the CONSULTANT immediately following the commencement of the subject Key Personnel's unavailability, the VILLAGE may, at its election, declare such contract terminated and at an end.

The VILLAGE reserves the right to terminate in whole or any part of this Agreement, upon written notice to the CONSULTANT, in the event of default by the CONSULTANT. Default is defined as failure of the CONSULTANT to perform any of the provisions of this contract or failure to make sufficient progress so as to endanger performance of this Agreement in accordance with its terms. In the event of 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.

The CONSULTANT shall be liable to the VILLAGE for all excess costs for such similar supplies or service unless evidence is submitted to the VILLAGE that in the sole opinion of the VILLAGE clearly proves that failure to perform the contract was due to causes beyond the control and without the fault or negligence of the CONSULTANT.

Upon termination and within 30 days of termination, the CONSULTANT shall cause to be delivered to the VILLAGE all surveys, reports, permits, agreements, calculations, drawings, specifications, partially and completed estimates, and data, computer hardware, as well as products of computer aided drafting, design, and writing that have been paid for by the VILLAGE or, if CONSULTANT is in default, regardless if whether the VILLAGE has paid for them. VILLAGE data created by the VILLAGE in possession of CONSULTANT shall be destroyed or deleted from any digital or optical storage device or the storage device shall be delivered to VILLAGE. Cost of termination incurred by the CONSULTANT before the termination date will be reimbursed by the Village only, if prior to the effective termination date, the Village receives from the CONSULTANT a list of actions necessary to accomplish termination and the Village agrees in writing that those actions be taken. Upon receipt of the termination notice, the CONSULTANT shall stop all work until said Agreement is reached.

8. MEDIATION: All claims, disputes, and other matters in question arising out of, or related to, this Agreement or the breach thereof, shall first be presented for mediation. The mediation shall be conducted by mutually agreeable mediator. The initial mediation session shall be held within thirty (30) days after the initial notice. The parties agree to share equally the costs and expenses of the mediation except for the expenses incurred by each party for its own legal representation in connection with the mediation.
9. If mediation is unsuccessful, either party may file an action in the local circuit court as limited by Section 22 below.
10. INDEMNIFICATION: The CONSULTANT shall indemnify, and hold harmless the VILLAGE, its officers, agents and employees, from and against any and all claims, losses or liability, or any portion thereof, arising from injury or death to persons or damage to property occasioned by the negligent act, omission, or failure of the CONSULTANT, its officers, agents and employees, in performing the work required by this Agreement to the extent such damages are caused by CONSULTANT.

CONSULTANT represents and warrants that CONSULTANT has the right to use any third-party intellectual property that may be incorporated into the work product provided by the CONSULTANT to the VILLAGE. CONSULTANT shall indemnify and hold harmless the VILLAGE against any third-party intellectual property infringement claims.

The CONSULTANT shall secure and maintain in force throughout the duration of this Agreement, Comprehensive General Liability insurance naming the VILLAGE as an additional insured written on an occurrence basis with a minimum coverage of \$1,000,000 per occurrence and \$2,000,000 aggregate for personal injury, \$2,000,000 per occurrence/aggregate for property damage. CONSULTANT shall obtain and provide proof to Village of adequate Workers' Compensation Insurance as required by Illinois law.

The insurance provided by CONSULTANT shall be primary, and not contributory to any insurance purchased by the VILLAGE. The Certificate of Insurance shall provide that it will not be canceled, reduced, or materially changed without providing the VILLAGE thirty (30) days advance notice, via certified mail.

The CONSULTANT shall not commence work under this contract until they have ~~obtained~~ all insurance required and such insurance has been approved by the VILLAGE, nor shall the CONSULTANT allow any subcontractors (hereafter Subs) to commence work on their subcontract until the same insurance has been obtained by the Sub. The CONSULTANT and their Subs shall maintain all insurance for not less than one (1) year after completion of this contract.

If the CONSULTANT is providing architectural, engineering, information technology, or surveying services, CONSULTANT shall also file a certificate of insurance for professional liability, errors and omissions coverage with a minimum coverage of \$1,000,000 subject to final acceptance by the VILLAGE of said coverage.

In the event the VILLAGE requires contractors or subcontractors working on VILLAGE projects to acquire and provide proof of insurance covering public liability, death, and property damage naming the VILLAGE as an insured, the VILLAGE shall require said contractors or subcontractors to name the CONSULTANT as an additional insured.

11. ASSIGNMENT: The CONSULTANT shall not assign this Agreement, or any of the work or services covered by this Agreement, without the express written consent of the VILLAGE, which the VILLAGE may deny at its discretion. Subcontractors shall not be used without consent of the VILLAGE.
12. STANDARD FOR PERFORMANCE: The CONSULTANT shall perform its services in accordance with generally accepted Information Technology and consulting standards and shall be responsible for the professional and technical soundness and accuracy of all work and services furnished pursuant to this Agreement.
13. OWNERSHIP AND REUSE OF DOCUMENTS OR DATA: The originals of all documents, including drawings and specifications, electronic media and data files prepared by CONSULTANT pursuant to this Agreement shall become the property of the VILLAGE and are instruments of service in respect of the Project. The CONSULTANT shall provide the VILLAGE with reproducible copies of all documents, drawings, specifications, and other work products that shall be the property of the VILLAGE. Such documents, drawings, and specifications are not intended nor represented by the CONSULTANT to be suitable for reuse by the VILLAGE or others on extensions of the services provided for the intended project or on any other project. The basic specifications, project schedules, software configurations, programming notes and flowcharts, computations, and other data prepared or obtained by the CONSULTANT pursuant to the Agreement will be made available, upon request, to the VILLAGE without cost and without restriction or limitations as to their use. All field data, notes, test records, and reports shall be available to the VILLAGE upon request.

Any reuse without written verification or adaptation by the CONSULTANT for the specific purpose intended will be at the VILLAGE's sole risk and without liability or legal exposure to the CONSULTANT, and the VILLAGE shall indemnify and hold harmless the CONSULTANT from all claims, damages, losses, and expenses including attorney's fees arising out of or resulting therefrom.

The CONSULTANT shall provide the VILLAGE with files in mutually agreeable format of work performed for and paid for by the VILLAGE at the request of the VILLAGE, with the following provisions:

- a) The use or reuse of original or altered electronic files by the VILLAGE, except for the VILLAGE's purposes stated herein, will be at the VILLAGE's own risk and liability.
- b) The CONSULTANT shall be indemnified and held harmless by the VILLAGE to the fullest extent of the law from any and all claims, suit, liability, demands, or costs arising out of the use or release of the information contained on the files except for the VILLAGE's purposes stated herein.
- c) The CONSULTANTS shall perform its services in accordance with generally accepted Information Technology, engineering and consultant standards and shall be responsible for the professional and technical soundness and accuracy of all work and services furnished pursuant to this agreement.

14. VILLAGE-PROVIDED INFORMATION: CONSULTANT is entitled to rely on all information furnished or to be furnished by VILLAGE. VILLAGE agrees to hold harmless and indemnify CONSULTANT, its officers, agents, and employees from any and all claims of any kind arising out of or relating to any claims caused by an error or omissions in information provided by the VILLAGE which were the cause of the claim for damages and provided, further, that the CONSULTANT's reliance on such information was reasonable under the circumstances. All information, worksheets, reports, design calculations, plans, data, and specifications as provided by the VILLAGE shall be the sole property of the VILLAGE unless otherwise specified in this agreement.

Information provided by the VILLAGE is intended solely for CONSULTANTS use in the course of performing services under this agreement. CONSULTANT shall treat this information as confidential and shall return or destroy all copies of such information, in possession of CONSULTANT, upon fulfillment of their obligations under this agreement or termination of this agreement. CONSULTANT shall not use this information for demonstration purposes, or share or sell this information without the VILLAGE's prior written consent.

15. THIRD-PARTY BENEFICIARIES: It is recognized that the services performed by CONSULTANT are for the benefit of the VILLAGE and no other party. There are no third-party beneficiaries to this Agreement.

16. ACCESS TO RECORDS CLAUSE: The VILLAGE and other authorized representatives of the state and federal governments shall have access to any books, documents, papers, and records of the CONSULTANT which are directly pertinent to this Agreement for the purposes of making audits, examination, excerpt, and transcriptions.

All such records and all other records pertinent to this Agreement and work undertaken under this Agreement shall be retained by the CONSULTANT for a period of three years after the completion of the VILLAGE's project, unless a longer period is required to resolve audit findings or litigation. In such cases, the VILLAGE shall request a longer period for record retention.

17. PROHIBITED INTERESTS: No member of the governing body of the VILLAGE and no other elected or appointed officer, employee, or agent of the VILLAGE who exercises any functions or responsibilities in connection with the planning and carrying out of the program. shall have any personal financial interest, direct or indirect, in this contract; and the CONSULTANT shall take appropriate steps to assure compliance.
18. NOTICE: Any notice relating to claims for damages or relating to allegations of default shall be in writing and shall be made by certified or registered mail, postage prepaid, return receipt requested, or reliable overnight courier, to the parties as follows:

If to CONSULTANT:

TKB Associates, Inc
Jerry Breitbarth
9459 Enterprise Drive
Mokena, IL 60448

If to the VILLAGE:

Village of Campton Hills
Attention: Denise Burchard, Village Administrator
40W270 LaFoxRd, Suite B,
Campton Hills, IL 60175

19. NON-DISCRIMINATION: The CONSULTANT shall not discriminate on the basis of handicapped status in the admission of, access to, or treatment of employment in its programs and activities.
20. ENTIRE AGREEMENT: This Agreement contains the entire agreement between the parties. No other writing, discussion or any other communication about possible terms is to be construed as forming part of the agreement between the parties. Any

terms and conditions submitted by the CONSULTANT as part of its proposal are specifically disavowed and such terms and conditions shall not supersede this Agreement

21. BINDING EFFECT: This Agreement shall be binding upon the partners, heirs, successors, executors, administrators, and assigns of all the parties hereto.
22. LAW AND VENUE: This Agreement shall be construed in accordance with the laws of the State of Illinois. Venue for any litigation arising from this Agreement shall be limited to the Courts of the Sixteenth Judicial Circuit, Kane County, Illinois.
23. ILLINOIS PREVAILING WAGES: To the extent the proposed contract calls for the construction of a "public work," within the meaning of the Illinois Prevailing Wage Act, 820 ILCS 130/.01 et seq. ("the Act"), CONSULTANT shall not pay less than the prevailing rates of wages to all laborers, workmen, and mechanics performing work under this contract, and shall comply with the requirements of the Illinois Wages of Employees on Public Works Act 820 ILCS 130/1-12, to the extent they are applicable, including, without limitation, the submission of certified monthly payroll reports as required by 820 ILCS 130/5. CONSULTANT is advised that failure to timely submit such reports shall be cause for the withholding of payments otherwise due the CONSULTANT until compliance with the reporting requirements is achieved. The current Illinois Department of Labor Prevailing Wage Rates for the County of Kane are available at their website <http://www.state.il.us/agency/idol/>. Prevailing wage rates are subject to revision monthly. Copies of the current prevailing wage rates are also available at the Kane County Purchasing Department, 719 Batavia Avenue, Geneva, Illinois.
24. COMPLIANCE BY CONSULTANT. CONSULTANT shall be responsible for and shall comply with all other applicable Federal and State laws with regard to its work for the VILLAGE.

Any bond furnished under this contract shall include such provisions as will guarantee the faithful performance of such prevailing wage clause as provided by the contract.

CONSULTANT and each of its Sub-Contractors shall pay each of its employees engaged in work on the project under this Agreement in full (less deductions made mandatory by law) not less often than once each week.


If CONSULTANT or a subcontractor deems the work is not subject to the Act, CONSULTANT or its subcontractor shall then submit to the VILLAGE, a letter indicating receipt of this notice and their determination that the Act does not apply. If CONSULTANT or a subcontractor believes the work is not subject to the Prevailing Wage Act, and it is later determined by the Illinois Department of Labor or a court of competent jurisdiction that prevailing wages should have been paid, the CONSULTANT shall indemnify and hold the VILLAGE harmless therein for all costs and penalties incurred by the VILLAGE related to the violation, including reasonable attorneys' fees incurred by the VILLAGE to defend such an action.

IN WITNESS WHEREOF the parties hereto have executed this Agreement as of the day and year first above written.

VILLAGE OF CAMPTON HILLS

ATTEST:

(SEAL)


Michael Tyrrell, Village President 11/22/2022

TKB Associates, Inc.

ATTEST:



Jerry Breitbarth