

VILLAGE OF VERNON HILLS
ORDINANCE NO. 2018-117

AN ORDINANCE AMENDING ORDINANCE 2018-105 - APPROVING A CONTRACT
BETWEEN LAUTERBACH & AMEN, LLP AND THE VILLAGE OF VERNON HILLS
FOR ACCOUNTING AND FINANCIAL OVERSIGHT SERVICES

WHEREAS, the Village of Vernon Hills, County of Lake, State of Illinois (*"the Village"*) is a duly organized and existing municipality and unit of local government created under the provisions of the laws of the State of Illinois, and is operating under the provisions of the Illinois Municipal Code; and

WHEREAS, the Village of Vernon Hills desires to enter into a contract with Lauterbach & Amen, LLP (L&A) to provide full financial services. L&A will further provide an assessment of Village financial policies and practices customarily used in governmental accounting and other analyses or assessments as the Village Board or Village Manager may request.

NOW THEREFORE BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF VERNON HILLS, LAKE COUNTY, ILLINOIS, AS FOLLOWS:

SECTION 1: That the Village President is authorized to execute a Contract Between Village of Vernon Hills and Lauterbach & Amen, LLP, as attached as Exhibit A

SECTION 2: EFFECTIVE DATE: This Ordinance shall be in full force and effect from its passage and approval.

SECTION 3: ORDINANCE NUMBER: This Ordinance shall be known as Ordinance Number 2018-117.

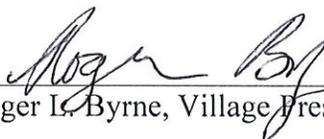
Dated the 17th of July 2018

Adopted by roll call votes as follows:

AYES: 5 – Byrne, Marquardt, Koch, Oppenheim, Takaoka

NAYS: 1 - Schultz

ABSENT AND NOT VOTING: 0 - None



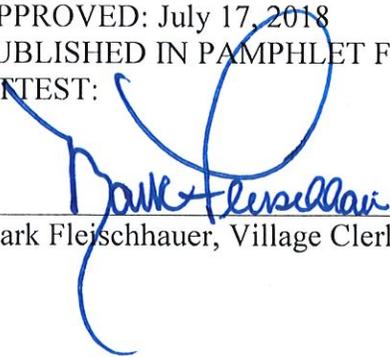
Roger L. Byrne, Village President

PASSED: July 17, 2018

APPROVED: July 17, 2018

PUBLISHED IN PAMPHLET FORM: July 18, 2018

ATTEST:



Mark Fleischhauer, Village Clerk



**CONTRACT BETWEEN VILLAGE OF VERNON HILLS
AND
LAUTERBACH & AMEN, LLP**

In consideration of the mutual promises set forth below, the Village of Vernon Hills, 290 Evergreen Drive, Vernon Hills, IL 60061-1039 (hereafter "the Village") , and Lauterbach & Amen, LLP (hereafter "L&A") an Illinois Limited Liability Partnership, agree as follows:

- I. **Scope of Services:** L&A agrees to provide all accounting staff and personnel sufficient to accounting and financial oversight services to the Village, including but not limited to the positions of Finance Director, Assistant Finance Director and such other staff as is reasonably necessary to accomplish all accounting and financial tasks required for day to day Village operations, as defined below.

A. **Included Activities:**

1. Provide financial oversight and guidance for Village;
2. Preparing annual budget, including meeting and working with staff to coordinate and oversee budget process;
3. Monitor Village spending and revenues;
4. Normal accounting and finance functions, including accounts receivable and payables, expense reimbursement and payroll;
5. Preparing any tax levies and handling any reporting requirements for any and all taxes, including but not limited to, Sales taxes, Food & Beverage tax, Amusement tax, Hotel tax sales tax; Utility tax, Motor Fuel Tax, and any other taxes or revenues which the Village is entitled to collect, use or distribute;
6. Manage and oversee TIF district expenses, special service areas;
7. Manage and oversee all revenue sources and funds for Village;
8. Manage and oversee developer related expenses, including developer deposits, letters of credit, billing and collecting expenses for which developers are responsible to reimburse Village;
9. Attend all meetings of Village Board, Committee of the Whole (COW), Police Pension Board meetings and such other meetings as the Village may from time to time require;
10. Attend staff meetings and meetings regarding specialty events as

required;

11. Advise Village on investments and assist Village officials in securing appropriate investments;
12. Oversee and assist Village in managing its funds, fund balances, cash-flow and reserves;
13. Provide such studies and analyses as the Board and/or Village staff may from time to time require.
14. Prepare, monitor and collect Food & Beverage taxes from establishments in the Village;
15. To advise the Village on and assist with insurance issues;
16. To advise the Village and assist in managing its banking relationships;
17. To advise the Village and assist in managing the Village's assets;
18. To advise the Village and assist in managing any debt or liabilities.

B. Excluded Activities:

1. Audit – L&A will not conduct the audit but will undertake all work necessary to assist outside auditors with audit and will provide all information, reports and other materials which the auditors may require.

II. Term. This Agreement shall be deemed to have commenced on the Effective Date of this Agreement and shall continue for a six (6) months. If neither party terminates the contract at that time, it shall automatically be extended for a period of three (3) years (the "Term"), or until terminated as provided elsewhere in this Agreement. Upon the expiration of the Term, the Village shall have the option to extend this Agreement for an additional three (3) year period (the "Additional Term"). The Additional Term shall be on the same terms and conditions as the Term. In the event the Village elects to exercise its option for the Additional Term, it shall provide written notice to L&A no less than one hundred eighty (180) days before the expiration of the Term. L&A shall have the right to refuse the option by providing the Village with written notice of said refusal; however, in the event L&A refuses the Village's exercise of its option, or the contract is terminated in the first six (6) months, this Agreement shall terminate one hundred eighty (180) days thereafter.

A. **Effective Date** The Agreement shall become effective on September 15, 2018.

III. **Payment:** The Village agrees to pay L&A the sum of Four Hundred Seventy Thousand Dollars (\$470,000) per year, in twelve (12) equal monthly payments.

A. **Billing Detail** L&A shall submit monthly invoices providing a description of the activities performed and services provided. If any of L&A services are subject to reimbursement by a third party (e.g. a developer), then L&A will provide sufficient detail of the services performed to enable the Village to receive reimbursement for such services from the third party.

B. **Submission of invoices Submission of Bills** The parties recognize that the Village conducts its Board meetings typically on the First and Third Tuesdays of each month. L&A shall submit its invoices at least 14 days before the Board meeting at which the invoice will be considered for payment to provide the Village sufficient time to review and analyze the bill. The Village will use its best effort to make payment within thirty (30) days after the Village Board approves L&A's invoice for payment. The parties agree that they will comply with the terms of the Illinois Local Government Prompt Payment Act 50 ILCS 50511, *et seq.* (the "Act"), and that the provisions of the Act will control with respect to any failure by to pay in the Village a timely manner.

C. **Payment Not Waiver** The Parties agree that payment by the Village of any L&A invoice shall not constitute a waiver of the Village's right to audit, review or contest the accuracy or reasonableness of such invoice.

IV. **Staffing & Personnel:**

A. **By L&A:** L&A agrees to provide individuals of competent background, skill, training and expertise for the following positions (hereafter referred to as "L&A Personnel") a Finance Director, Assistant Finance Director, Accountant and Food & Beverage Accountant and such additional personnel as may be required.

1. **Payroll & Taxes:** L&A shall be solely responsible for paying all salaries and wages for all L&A Personnel provided to the Village pursuant to this Agreement. In addition, L&A shall be solely responsible for any and all payroll taxes associated with the payment of wages and salaries for L&A Personnel, including but not limited to federal and state withholding, social security (FICA), Medicare and federal and state unemployment taxes and any other taxes or liabilities (hereafter referred to as "Payroll Tax Obligations") which are associated with such L&A Personnel.

2. **Benefits:** L&A shall provide and be responsible for paying for all benefits for L&A personnel provided to the Village. L&A agrees to provide comparable benefits to those provided to regular employees of the Village.
 3. **Hours and Days of Work:** L&A agrees to require L&A Personnel to, at a minimum, work the same hours and days as Village employees. L&A Personnel shall be entitled to the same holiday schedule as regular Village employees.
 4. **Independent Contractor Status:** The Parties to this Agreement stipulate and agree that all L&A Personnel provided to the Village shall be employees of L&A and not the Village and that nothing in this Agreement shall be interpreted as creating an employment relationship between any individual supplies by L&A. All L&A Personnel shall be deemed to be independent contractors, not employees of the Village.
 5. **Indemnification for Payroll and Tax Obligations:** L&A agrees to indemnify and hold harmless the Village and its officers, agents, employees and elected officials, from any and all liabilities, payroll obligations and all Payroll Tax Obligations for any L&A Personnel, including but not limited to any liabilities, taxes, fines, penalties, cost or attorneys' fees which the Village may incur
 6. **Indemnification for L&A Personnel Claims:** L&A agrees to indemnify and hold harmless the Village, and its officers, agents, employees and elected officials, from any and all liabilities, claims or causes of action which any L&A Personnel may assert against the Village for any reason.
 7. **No Joint Employer Relationship:** Nothing in this Agreement shall be construed as creating any Joint Venture or Joint-Employer relationship between L&A and the Village.
 8. **Background Checks** All Consultants, employees, subcontractors and/or agents of L&A who perform services on behalf of the Village shall submit to full background checks to be performed by the Vernon Hills Police Department, the sufficiency of which shall be at the sole discretion and approval of the Village.
- B. **By the Village:** The Village agrees to provide at least one part time employee to assist L&A with bookkeeping and data entry. The Village will be responsible for the payment of all Payroll Tax Obligations associated with, and all benefits provided to, such employee.

- C. **Compliance:** L&A and all persons assigned by L&A shall comply with all laws, regulations, orders, ordinances, codes and standards, including identification and procurement of required permits, certificates, approvals and inspections, insurance coverage (including workers' compensation), proper withholding and submission of social security and income taxes and any other laws, which subsequently become applicable L&A or its employees or agents, in performance under this Agreement.
- D. **Accounting & Municipal Finance Standards** All work performed by L&A under this Agreement shall conform with Generally Accepted Accounting Principles and shall be consistent with all applicable standards of the Governmental Accounting Standards Board.
- E. **Termination or Replacement of Specific L&A Personnel by Village:** The Parties stipulate and agree that the Village shall have the right, in its sole discretion, to require L&A to remove and/or replace any L&A Personnel.
- F. **Replacement of Specific L&A Personnel by L&A:**
1. **Resignation from L&A:** If any L&A Personnel elect to resign from L&A, then L&A shall immediately notify the Village of such employee's intention to resign and shall replace such individual(s) with persons of comparable skill, background, educations, training and expertise. Such replacement shall occur within five (5) business days of the L&A employee providing notice to L&A, or in such other timeframe as the parties may agree to allow for an orderly and smooth transition without disruption to the Village.
 2. **Relocation or Reassignment by L&A:** In the event L&A elects to reassign and L&A Personnel to an L&A Client other than the Village, then L&A shall provide the Village with not less than 30 business days' written notice, or such other notice as the parties may agree and shall, within ten (10) business days of providing such notice provide a replacement for that individual to allow for an orderly and smooth transition without disruption to the Village.
- V. **Transition Period:** The Parties agree that in May 2018, the Village engaged L&A to provide services as a Finance director on an interim basis for a six (6) month time period (hereafter "Original Engagement"). As a transition into a permanent engagement contemplated under this Agreement, L&A agrees to continue to provide the services of Nathan Gaskill and Larry Nakrin on the same basis and for the same time period contemplated under the Original Engagement, or for such other period of time as the parties may mutually agree.

VI. Termination

- A. **By Village** This agreement may be terminated at any time by the village upon 60 days written notice, or such other time as the parties may agree. In the event the Village terminates this agreement, L & A agrees to continue its services for a minimum of up to 120 days thereafter to permit the Village to find a suitable replacement and to permit an orderly transition of affairs.
- B. **By L&A** This Agreement maybe terminated at any time by L & A upon 120 days written notice or such other time as the parties may agree provide such notice may not be given during the months of January through April, inclusive, of any year which the time of year when the Village goes through its budget process. In the event L&A terminates this agreement for nonpayment of its fees as set forth in paragraph III (A) through (C) above, then L&A is only required to give 30 days' written notice of its intent to terminate the Agreement. In the event L&A elects to terminate this agreement, L&A agrees to assist in an orderly transition of the Village's financial affairs.

- VII. Default** In the event either party is in default of its obligations under this agreement, the parties breach shall have 30 days to cure its default. Nothing in this Agreement is intended to limit any remedies available to either party whether at law or in equity. L&A agrees that if it is in default of its obligations under this Agreement, and fails to timely cure such default, L&A recognizes that its services are of a unique and highly specialized nature and that the Village would suffer irreparable harm, would not have an adequate remedy at law and that the hardship to the village would significantly outweigh any hardship to L&A; therefore, the Village would be entitled to injunctive relief, without the requirement to post any bond. In such situation, L&A would preserve its rights to contest whether it was in Default, but would waive any and all rights to contest the Villages entitlement to injunctive relief.

- VIII. Insurance.** L&A agrees to maintain the following types of insurance covering its employees, independent contractors and business activities in connection with the services it provides under this Agreement, as more specifically delineated in Exhibit A tot his Agreement.:

- A. Workers' Compensation insurance;
- B. Comprehensive General Liability insurance;
- C. Professional Liability insurance.
- D. Employee Theft & Dishonesty Coverage

IX. Other Matters.

- A. **Venue.** L&A and the Village agree that any dispute arising under or out of this Agreement shall be commenced in the Circuit Court for the Nineteenth Judicial Circuit in Lake County, IL.
- B. **Assignment** The parties agree that this Agreement may not be assigned to any third party without the written consent of the Village.
- C. **Choice of Law.** This Agreement shall be interpreted under Illinois law, without regard for conflict of law principles
- D. **Merger.** This Agreement represents the final and last understanding and agreement between the parties and supersedes all prior or contemporaneous oral or written agreements.
- E. **Severability.** In the event one or more provisions are determined by a Court of competent jurisdiction to be unenforceable, then all other provisions shall remain in full force and effect.

ACCEPTED AND AGREED:

VILLAGE OF VERNON HILLS

LAUTERBACH & AMEN, LLP

By: _____

Roger By

By: _____

Math J. Hill

Its: _____

Village President

Its: _____

Partner

Exhibit A
INSURANCE REQUIREMENTS

L&A agrees to provide and maintain the following

1. Property & Casualty Insurance (Types & Minimum Limits):

- a. Comprehensive General Liability: \$1,000,000 combined single limit per occurrence for bodily injury, personal injury, and property damage. Minimum General Aggregate shall be no less than \$2,000,000 per person per aggregate. Clients and Contractors Protective Liability: \$1,000,000 combined single limit per occurrence. Excess Liability/Umbrella Coverage \$5,000,000.
- b. Automobile Liability: \$1,000,000 combined single limit per accident for bodily injury and property damage.
- c. Worker's Compensation and Employers' Liability: Worker's Compensation limits as required by the Labor Code of the State of Illinois and Employers' Liability limits of \$1,000,000 per accident.

2. Professional Liability Coverage through the term of this Agreement, errors and omissions insurance coverage, commonly referred to as malpractice Insurance coverage, with minimum limits of \$5,000,000 per occurrence or claim and \$5,000,000 aggregate per policy period.

3. Employee Theft and Dishonesty Coverage L&A agrees to provide evidence of, and to maintain, through the term of this Agreement, insurance coverage for theft and dishonesty, other similar wrongful acts committed by L&A Personnel with limits of \$3,000,000.

Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to and approved by Village. At the option of Village, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects Village its officials, employees and volunteers; or L&A shall procure a bond guaranteeing payment of losses and related investigation, claim administration and defense expenses.

Other Insurance Provisions

The policies are to contain, or be endorsed to contain the following provisions:

Commercial General Liability, Clients and Contractors Protective Liability and Automobile Liability Coverage

- a. Village, its officials, employees and volunteers are to be covered as insureds as respects: liability arising out of activities performed by or on behalf of L&A as well as materials, and equipment procured, owned, leased, hired or borrowed by L&A. The coverage shall contain no special limits on the scope of the protection afforded to Village, its officials, employees or volunteers.
- b. L&A's insurance coverage shall be primary insurance as respects Village, its officials, employees and volunteers. Any insurance or self-insurance maintained by Village, its officials, employees or volunteers shall be excess of L&A's insurance and shall not contribute with it.
- c. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to Village, its officials, employees or volunteers.
- d. Coverage shall state that L&A's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits or the insurer's liability.

Worker's Compensation and Employers' Liability Coverage

The insurer shall agree to waive all rights or subrogation against Village, its officials, employees or volunteers for losses arising from work performed by L&A for Village.

All Coverages

Each insurance policy required by this clause shall be endorsed to state that the coverage shall not be suspended, voided; canceled, reduced in coverage or in limits except after thirty (30) day's prior written notice by certified mail, return receipt requested, has been given to Village.

Acceptability of Insurers

The insurance carrier used by L&A shall have a minimum insurance rating of A:VIT according to the AM Best insurance Rating Schedule and licensed to do business in the State of Illinois.

Certificates of Insurance

L&A shall furnish Village with certificates of insurance and copies of all policies of insurance naming Village, its officials, agents, employees and volunteers as additional insureds, and with original endorsements affecting coverage required by this clause. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements may be on forms provided by the municipality and are to be received and approved by the municipality before any work commences. Village reserves the right to request full certified copies of the insurance policies.