

**VILLAGE OF VERNON HILLS  
ORDINANCE 2023-089**

**AN ORDINANCE AUTHORIZING A PROFESSIONAL SERVICES AGREEMENT  
WITH RYAN, LLC FOR ECONOMIC DEVELOPMENT FINANCE SERVICES IN AN  
AMOUNT NOT TO EXCEED \$25,000**

**WHEREAS**, all professional service engagements which require the expenditure of over \$25,000 require Board of Trustees approval; and

**WHEREAS**, in Ordinance 2022-085, the Village Board authorized a professional services agreement with Kane, McKenna and Associates, Inc. for consulting services not to exceed \$25,000; and

**WHEREAS**, due to the need for continued financial analysis and tax projections related to the amendment to the Hawthorn Mall Redevelopment Agreement, an increase of \$25,000 is required; and

**WHEREAS**, the Village Board has determined that Ryan, LLC, formerly Kane, McKenna and Associates, Inc., is best able to provide economic development analysis for the Village.

**NOW THEREFORE BE IT RESOLVED BY THE VILLAGE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF VERNON HILLS, LAKE COUNTY, ILLINOIS:**

That, the Village Manager is authorized to sign a contract with Ryan, LLC in an amount not to exceed \$25,000 for the purchase of certain hourly rates associated with the preparation of financial analysis and tax projections related to the amendment to the Hawthorn Mall Redevelopment Agreement and associated expenditures.

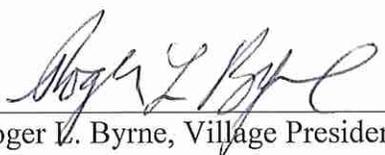
Dated this 15<sup>th</sup> day of August, 2023

Adopted by roll call vote as follows:

AYES: 6 – Oppenheim, Forster, Marquardt, Schenk, Koch, Byrne

NAYS: 0 - None

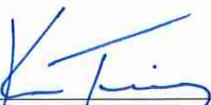
ABSENT AND NOT VOTING: 1 - Takaoka

  
\_\_\_\_\_  
Roger L. Byrne, Village President

PASSED: 08/15/2023

APPROVED: 08/15/2023

ATTEST: 08/15/2023

  
\_\_\_\_\_  
Kevin Timony, Village Clerk





311 South Wacker Drive  
Suite 4800  
Chicago, IL 60606  
Tel. 312.980.1122  
Fax 312.980.1132  
www.ryan.com

August 1, 2023

Mr. Kevin Timony  
Village Manager  
Village of Vernon Hills  
290 Evergreen Drive  
Vernon Hills, Illinois 60061

Re: Economic Development Finance Services

Dear Mr. Timony:

Thank you very much for the opportunity to assist Village of Vernon Hills, including subsidiaries and/or affiliates thereof ("Village"), with economic development finance services. This letter of agreement (the "Agreement") outlines the terms of our engagement to assist Village with economic development services.

### **ENGAGEMENT SCOPE**

Ryan, LLC ("Ryan") will assist Village in analyzing and reviewing certain financial information ("Financial Analysis") provided by Centennial Real Estate, as representative of the development group ("Developer"). The Financial Analysis would relate to the development changes proposed by the Developer to the original proposed development of a mixed-use project in the Village's Hawthorn Mall TIF District (the "Project").

The purpose of the Financial Analysis is to test the validity of a continued request to the Village, by the Developer, for incremental property and sales tax revenues to support the public assistance requested from the Village based on the changes proposed by the Developer to the Project. The Village has asked the Ryan, from the Village's perspective, to review the Financial Analysis to help the Village determine if the request for public assistance is still reasonable, based upon its merits, and economically feasible given the underlying revised project cost and incremental property and sales tax revenue projections provided by the Developer and reviewed by Ryan.

Ryan's Services will include the following:

- Continuation of services to critically analyze the revised tax revenue projections provided by the Developer in the Financial Analysis submitted to the Village and test same for reliability and reasonableness by preparing alternative revenue projections based on comparable projects and Ryan's file data (including "comps" from peer projects). The scope of said projections includes property tax incremental revenues, sales tax projections

and/or other municipal revenues that are projected to be generated from the proposed Project being considered by the Village.

- Continuation of services to review the revised return and budget analyses submitted by the Developer both with and without Village assistance. Ryan will also prepare alternative return analyses as a means to provide the Village with an independent estimate of developer's need for Village financial assistance, and to measure the extent of such need, if any.
- Continuation of services to provide assistance and information necessary for resolution of any Redevelopment Agreement related issues between the Village and the Developer.
- Continuation of services to work with the Village to identify the most feasible economic public financing strategy for any public improvements or other needs of the proposed Project including providing the Village with recommendations regarding proposed revenue/cost projections and the potential funding advantages and disadvantages of various public financing strategies.
- Continuation of services to work with the Village regarding preparation or review of financing strategies.
- Finance Structuring/Redevelopment Agreement Preparation
  - Continuation of services to update, revise and refine pro formas and project financial analysis as required by any negotiations including projecting anticipated incremental revenues to be generated from potential development projects and judge whether such revenues are reasonable, feasible and are based on acceptable assumptions given each development project's characteristics and potential.
  - Continuation of services to assist the Village in drafting and/or redrafting any agreements in conjunction with the Village attorneys for presentation and negotiations and otherwise perform all duties necessary to facilitate any required agreements on behalf of the Village
  - Continuation of services to assist the Village staff and the Village Administrator, in the preparation of summary materials including the development of a framework for financing.
  - Continuation of services to assist Village in any follow-up, as required.

Mr. Kevin Timony  
Village of Vernon Hills  
August 1, 2023  
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- Arrange and attend meetings with the Village pertinent to the negotiation of any agreements
- All of the above shall be undertaken under the direction of the Village, and the Ryan is reliant upon cooperation, information and data supplied by the Village to undertake the professional services described above.

Neither Ryan nor any of its employees will provide any legal or accounting services to Village in connection with this engagement. Neither Ryan nor any employee of Ryan will serve in a representative capacity on behalf of before the Internal Revenue Service (IRS), nor will Ryan or any employee of Ryan obtain a power of attorney (on IRS Form 2848 or otherwise) authorizing Ryan or such employee to represent Village before the IRS. If it becomes necessary for Village to have a representative before the IRS or if it becomes necessary for Ryan to engage a party to provide professional services in support of Ryan's obligations under this Agreement, Ryan may, at its option, engage a representative or such third party on behalf of Village to represent Village before the IRS or provide such professional services, as the case may be. Such engagement shall (i) be at Ryan's expense, provided that in the case of an Adjudication, Ryan's fee shall be adjusted as set forth below; and (ii) be subject to Village's approval, provided that Village agrees not to unreasonably withhold or condition such approval. Ryan will provide assistance to such representative, but such assistance shall be limited to providing the factual basis for the filing of claims for refund and other tax returns filed by Village pursuant to this agreement and the information supplied on such returns.

### **ENGAGEMENT PERIOD**

Upon written pre-authorization and approval, Ryan may begin its Services to Village while Village seeks requisite approval from any applicable municipality leadership, governing body, or the like. Compensation for such Services shall be due and payable to Ryan, per the payment terms described below, regardless of such requisite approval being in place at the time such Services were performed.

### **ELECTRONIC DATA FILES**

Village agrees to provide electronic data files to Ryan that will facilitate the identification and location of records to be reviewed. Ryan will assist Village's information systems personnel with determining the appropriate system file layouts, required data fields, and file types. Any out-of-pocket costs of preparing, modifying, or transferring such data will be the responsibility of Ryan. Village further agrees to assist Ryan in using Ryan's data extraction applications and other tools by providing all necessary access and configurations. Village acknowledges that Ryan's data extraction applications and other tools are proprietary to Ryan, and Village shall acquire no rights whatsoever with respect to such applications and other tools.

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Village of Vernon Hills  
August 1, 2023  
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Village agrees that all electronic data files shall be transferred by Village to Ryan through a secure transfer site and by methods approved in advance by Ryan and Village. The following data sites are approved by Ryan for such transfer: SFS and SFTP. In facilitation of this transfer, Ryan shall provide specific transfer instructions to Village when the electronic data files are prepared for delivery. Village further agrees that neither Village nor any employee or agent of Village shall transmit PII (as defined below) to Ryan without first (a) having reached an agreement with Ryan as to the date, time, and method of such transmission; (b) identified the particular types of PII; and (c) represented to Ryan that Village is not restricted from transferring the PII. "PII" or "Personally Identifiable Information" is any information that can be used to identify, contact, or locate an individual, either alone or combined with other easily accessible sources, or as defined by applicable law. PII includes information that is linked or linkable to an individual, such as medical, educational, financial, and employment information.

### **RESPONSIBILITIES**

All services will be conducted under the supervision of Ms. Sharon Welhouse, Principal who serves as Client Principal for Village. Ms. Sharon Welhouse, Principal, will serve as the Engagement Principal for this project. Mr. Charles Durham, Manager, Economic Development Finance will serve as Project Manager for this engagement and will be responsible for staffing, project coordination, technical direction, and related issues. Additionally, throughout the course of this engagement, we will make every effort to arrange and schedule all work to avoid interruption to Village's normal business operations.

### **COMPENSATION**

Village agrees to pay Ryan an hourly rate of \$290 for the Services based on the time that our professionals spend performing them. Billed monthly at the hourly rate for each individual, multiplied by the time Ryan professional expend to perform the services. Ryan's hourly rate fees will increase annually.

- Ryan estimates that the cost for services will be \$25,000.

In addition, Village shall reimburse Ryan for direct expenses incurred in connection with the performance of the Services. Direct expenses include reasonable and customary out of pocket expenses for items such as filing, application fees, mailers postage, external printing and copying services, third party fees and conferencing services. Ryan's compensation will not be reduced by any such expenses.

All invoices are due and payable in full within thirty (60) days of Village's receipt of invoice(s), in accordance with the Illinois Prompt Payment Act. Village agrees to pay interest of one and one-half percent (1½%) per month on any past due fees. Village further agrees to pay all costs of

Mr. Kevin Timony  
Village of Vernon Hills  
August 1, 2023  
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collection, including, but not limited to, any collection agency or attorneys' fees, incurred by Ryan in connection with fees more than sixty (60) days past due. Ryan's preferred method of payment is via electronic funds transfers ("EFT"), and EFT instructions will be provided to Village on each invoice. In the event Village is unable to remit payment via EFT, Ryan will accept checks, credit cards, or purchasing cards; however, if payment is made using a credit card or purchasing card, Village authorizes Ryan to add a processing fee to the payment. Such processing fee is currently three percent (3%) of the payment amount and is subject to change upon thirty (30) days prior notice. Ryan and Village shall abide by the rules of the National Automated Clearing House Association (or other similar local regulator) and the banking laws of the United States (or other applicable jurisdiction) when performing EFT (or similar electronic payment) transactions.

#### **NOTICE**

Any notice to be given under this Agreement shall be given in writing and may be made by personal delivery or hand delivery by courier, by overnight reputable national courier, or by placing such in the United States certified mail, return receipt requested. Notices to Village should be sent to the address indicated on the first page of this Agreement and notices to Ryan should be addressed as follows:

Ryan, LLC  
Three Galleria Tower  
13155 Noel Road  
Suite 100  
Dallas, Texas 75240  
Attn: Chairman and CEO

With copy to:           Attn: General Counsel

#### **INTEGRITY AND CONFIDENTIALITY**

We guarantee that all matters associated with the professional services we render will be directed with the highest degree of professional integrity. Accordingly, all information that Village makes available to Ryan shall be considered confidential, proprietary information, and Ryan shall not disclose such information to any third party except as required in fulfilling duties described by this Agreement or to comply with an official order of a court of law.

Additionally, Village agrees that Ryan's work product, including specific engagement procedures and techniques, constitutes proprietary and exclusive information, and Village further agrees not to disclose such information to any third party without obtaining prior written approval from Ryan. Additionally, Ryan's tax saving strategies constitute proprietary and exclusive information; provided, however, that notwithstanding the foregoing, Ryan does not limit Village's disclosure

Mr. Kevin Timony  
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August 1, 2023  
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of the tax treatment or the tax structures of the transactions. This Agreement does not include information independently developed by Village, information previously known to Village or information rightfully received by Village from a third party without confidential limitations.

### **LIMITATION OF LIABILITY**

Ryan does not guarantee a particular result as part of the services and Ryan shall not be liable for an adverse or unsatisfactory result unless such result is solely and directly caused by Ryan's negligence. Ryan shall not be liable for the following: (i) any failure or delay by Village in executing returns, forms or letters of authorization; (ii) inaccurate, untimely, incomplete, or otherwise unreliable information provided by Village or third-parties engaged by Village; (iii) inaccuracies in data or forms published by taxing authorities; or (iv) statutory, administrative, or judicial changes occurring after the submission of claims or filings to the taxing authority.

Ryan shall not be liable to Village for any claim, liability, damage or expense under any theory ("Claim" or "Claims") in excess of the following: (i) for any single Claim, \$20,000; and, (ii) for all Claims occurring in a twelve (12) month period, the lesser of \$100,000, or the fees paid by Village to Ryan for the specific services giving rise to the Claim during the preceding twelve (12) months. Village may not assert any cause of action against Ryan more than one (1) year after the date the cause of action accrues. IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR INDIRECT, EXEMPLARY, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES OR COSTS, INCLUDING LOST OR DAMAGED DATA, LOSS OF PROFIT OR GOODWILL, WHETHER FORESEEABLE OR NOT, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

### **LAW GOVERNING AGREEMENT**

This Agreement shall be governed by and construed in accordance with the laws of the State of Illinois. Exclusive venue for any dispute with respect to this Agreement shall reside in a court of competent jurisdiction in Chicago, Cook County, State of Illinois.

### **ACKNOWLEDGMENT**

Thank you for the opportunity to assist you with this project. If the above terms and conditions meet with your approval, please sign and return a copy of this Agreement at your convenience. Upon acceptance, we will contact you to arrange a mutually acceptable time to begin our review. If you have any questions, or if you would like to discuss this Agreement further, please contact Mr. Sharon Welhouse at 225.334.0040 Ext. 11-3446.

Mr. Kevin Timony  
Village of Vernon Hills  
August 1, 2023  
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**RYAN, LLC:**

By: 

Name: Sharon Welhouse

Title: Principal

Date: August 1, 2023

**VILLAGE OF VERNON HILLLS:**

By: 

Name: Kevin Timony

Title: Village Manager

Date: 8/18/23

VILLAGE OF VERNON HILLS

ORDINANCE NO. 2023-089

AN ORDINANCE AUTHORIZING A PROFESSIONAL SERVICES AGREEMENT WITH  
RYAN, LLC FOR ECONOMIC DEVELOPMENT FINANCE SERVICES IN AN AMOUNT  
NOT TO EXCEED \$25,000

THE 15<sup>th</sup> DAY OF AUGUST 2023

Published in pamphlet form by the Authority of the  
President and Board of Trustees of the Village of  
Vernon Hills, Lake County, Illinois, this  
15<sup>th</sup> day of August, 2023

STATE OF ILLINOIS )  
 )  
COUNTY OF LAKE )

CERTIFICATE

I, KEVIN TIMONY, CERTIFY THAT I AM THE DULY APPOINTED AND ACTING VILLAGE CLERK OF THE VILLAGE OF VERNON HILLS, LAKE COUNTY, ILLINOIS. I FURTHER CERTIFY THAT ON AUGUST 15, 2023, THE CORPORATE AUTHORITIES OF SUCH MUNICIPALITY PASSED AND APPROVED ORDINANCE NO. 2023-089 AN ORDINANCE AUTHORIZING A PROFESSIONAL SERVICES AGREEMENT WITH RYAN, LLC FOR ECONOMIC DEVELOPMENT FINANCE SERVICES IN AN AMOUNT NOT TO EXCEED \$25,000.

THE PAMPHLET FOR ORDINANCE NO. 2023-089 INCLUDING THE ORDINANCE AND A COVER SHEET THEREOF, WAS PREPARED, AND A COPY DATED AUGUST 15, 2023 AND CONTINUING FOR AT LEAST TEN DAYS THEREAFTER. COPIES OF SUCH ORDINANCE WERE ALSO AVAILABLE FOR PUBLIC INSPECTION UPON REQUEST IN THE OFFICE OF THE VILLAGE CLERK.

DATED IN VERNON HILLS, ILLINOIS, THIS 15<sup>TH</sup> DAY OF AUGUST 2023.



Kevin Timony, Village Clerk

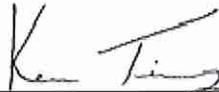
SEAL



AFFIDAVIT OF SERVICE

STATE OF ILLINOIS     )  
  )  
COUNTY OF LAKE     )

I, KEVIN TIMONY, BEING FIRST DULY APPOINTED, DEPOSES AND SAYS ON OATH THAT AS VILLAGE CLERK OF THE VILLAGE OF VERNON HILLS, HE DID CAUSE THE FOREGOING CERTIFICATE FOR ORDINANCE NO. 2023-089 AN ORDINANCE AUTHORIZING A PROFESSIONAL SERVICES AGREEMENT WITH RYAN, LLC FOR ECONOMIC DEVELOPMENT FINANCE SERVICES IN AN AMOUNT NOT TO EXCEED \$25,000 TO BE POSTED IN THE VILLAGE HALL AS REQUIRED BY LAW FROM AUGUST 15, 2023 TO AUGUST 25, 2023.

  
\_\_\_\_\_  
Kevin Timony, Village Clerk

SUBSCRIBED AND SWORN TO BEFORE ME  
THIS 15<sup>th</sup> DAY OF AUGUST 2023

  
\_\_\_\_\_  
Notary Public

