



PROFESSIONAL SERVICES AGREEMENT

THIS PROFESSIONAL SERVICES AGREEMENT (hereinafter referred to as the “Agreement”) is entered into this ____ day of December, 2020, between the Village of Oak Park, an Illinois home rule municipal corporation (hereinafter referred to as the “Village”), and Oak Park-River Forest Chamber of Commerce, an Illinois not-for-profit corporation (hereinafter referred to as the “Consultant”).

RECITAL

WHEREAS, the Village intends to have the Consultant to develop and implement a marketing and promotion campaign to support and promote Oak Park businesses during the ongoing COVID-19 pandemic response (hereinafter referred to as the “Project”) pursuant to its “Proposal for Village of Oak Park: Oak Park River Forest Holiday Gift Guide,” attached hereto and incorporated herein by reference (hereinafter referred to as the “Proposal”).

NOW, THEREFORE, in consideration of the mutual covenants hereinafter set forth, the parties agree as follows:

1. RECITAL INCORPORATED.

The above recital is incorporated herein as though fully set forth.

2. SERVICES OF THE CONSULTANT.

2.1. The Project consists of the services set forth herein as more completely described in the Consultant’s Proposal (hereinafter referred to as the “Services”). After written authorization by the Village, the Consultant shall provide the Services for the Project. The Village shall approve the use of subconsultants by the Consultant to perform any of the Services that are the subject of this Agreement.

2.2. The Consultant shall submit to the Village all reports, documents, data, and information set forth in the Project. The Village shall have the right to require such corrections as may be reasonably necessary to make any required submittal conform to this Agreement. The Consultant shall be responsible for any delay in the Services to be provided pursuant to this Agreement due to the Consultant’s failure to provide any required submittal in conformance with this Agreement.

2.3. In case of a conflict between provisions of the Consultant's Proposal and this Agreement, this Agreement shall control to the extent of such conflict.

2.4. Village Authorized Representative. The Interim Village Manager or the Manager's designee shall be deemed the Village's authorized representative, unless applicable law requires action by the Corporate Authorities, and shall have the power and authority to make or grant or do those things, certificates, requests, demands, approvals, consents, notices and other actions required that are ministerial in nature or described in this Agreement for and on behalf of the Village and with the effect of binding the Village as limited by this Agreement. The Consultant is entitled to rely on the full power and authority of the person executing this Agreement on behalf of the Village as having been properly and legally given by the Village. The Village shall have the right to change its authorized representative by providing the Consultant with written notice of such change which notice shall be sent in accordance with Section 16 of this Agreement.

2.5. Consultant's Authorized Representative. In connection with the foregoing and other actions to be taken under this Agreement, the Consultant hereby designates its Executive Director Liz Holt as its authorized representative who shall have the power and authority to make or grant or do all things, certificates, requests, demands, approvals, consents, notices and other actions required that are ministerial in nature or described in this Agreement for and on behalf of the Consultant and with the effect of binding the Consultant. The Village is entitled to rely on the full power and authority of the person executing this Agreement on behalf of the Consultant as having been properly and legally given by the Consultant. The Consultant shall have the right to change its Authorized Representative by providing the Village with written notice of such change which notice shall be sent in accordance with Section 16 of this Agreement.

2.6. The Consultant shall be an independent consultant to the Village. The Consultant shall solely be responsible for the payment of all salaries, benefits and costs of supplying personnel for the Services. Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against Consultant. The Consultant's services under this Agreement are being performed solely for the Village's benefit, and no other party or entity shall have any claim against the Consultant because of this Agreement or the performance or nonperformance of services hereunder.

3. COMPENSATION FOR SERVICES.

3.1. The Village shall compensate the Consultant for the Services in an amount not to exceed \$10,000.00. The Consultant shall be paid installments not more frequently than once each month ("Progress Payments"). Payments shall be made within thirty (30) days of receipt by the Village of a pay request/invoice from the Consultant. Payments shall be due and owing by the Village in accordance with the terms and provisions of the Local Government Prompt Payment Act, 50 ILCS 505/1 *et seq.*, except as set forth herein.

3.2. The Village may, at any time, by written order, make changes within the general scope of this Agreement in the Services to be performed by the Consultant. If such changes cause an increase or decrease in the amount to be paid to Consultant or time required for performance of any Services under this Agreement, whether or not changed by any order, an equitable adjustment shall be made and this Agreement shall be modified in writing accordingly. No service for which additional compensation will be charged by the Consultant shall be furnished without the written authorization of the Village.

3.3. The Village shall be entitled to retain any and all amounts withheld pursuant to this Agreement until the Consultant has performed the obligations in question. The Village shall be entitled to apply any money withheld or any other money due the Consultant under this Agreement to reimburse itself for any and all costs, expenses, losses, damages, liabilities, suits, judgments, awards, reasonable attorneys' fees, and administrative expenses incurred, suffered, or sustained by the Village and chargeable to the Consultant under this Agreement.

3.4. The Consultant's Services shall be considered complete on the date of final written acceptance by the Village, which acceptance shall not be unreasonably withheld or delayed. As soon as practicable after final acceptance, the Village shall pay to the Consultant the balance of any amount due and owing under this Agreement, after deducting therefrom all charges against the Consultant as provided for in this Agreement ("Final Payment"). The acceptance by Consultant of Final Payment with respect to the Services shall operate as a full and complete release of the Village of and from any and all lawsuits, claims, demands, damages, liabilities, losses, and expenses of, by, or to the Consultant for anything done, furnished for, arising out of, relating to, or in connection with the Services, except for such claims as the Consultant reserved in writing at the time of submitting its invoice for final payment.

4. TERM AND TERMINATION.

4.1. This Agreement shall take effect upon the Effective Date as defined herein and shall be for a one (1) year term thereafter unless terminated earlier pursuant to Section 4.2 below.

4.2. This Agreement may be terminated, in whole or in part, by either party if the other party substantially fails to fulfill its obligations under this Agreement through no fault of the terminating party. The Village may terminate this Agreement, in whole or in part, for its convenience. No such termination shall be effective unless the terminating party gives the other party not less than ten (10) calendar days' written notice pursuant to Section 16 below of its intent to terminate.

4.3. If this Agreement is terminated by either party, the Consultant shall be paid for Services performed to the effective date of termination, including reimbursable expenses. In the event of termination, the Village shall receive reproducible copies of drawings, specifications and other documents completed by the Consultant pursuant to this Agreement.

5. INDEMNIFICATION.

5.1. To the fullest extent permitted by law, the Consultant hereby agrees to defend, indemnify and hold harmless the Village and its officers, officials, agents, employees and volunteers against all injuries, deaths, loss, damages, claims, patent claims, suits, liabilities, judgments, cost and expenses, including, but not limited to, reasonable attorney's fees and court costs (hereinafter referred to as "Claims") which may accrue against the Village and its officers, officials, agents, employees and volunteers to the extent arising out of the negligent performance of the work by the Consultant, its employees, or subconsultants, except for the negligence of the Village or its officers, officials, agents, employees and volunteers.

6. INSURANCE.

6.1. The Consultant shall, at the Consultant's expense, secure and maintain in effect throughout the duration of this Agreement, insurance of the following kinds and limits set forth in this Section 6. The Consultant shall furnish Certificates of Insurance to the Village before starting work or within ten (10) days after the notice of award of the Agreement, which ever date is reached first. All insurance policies, except professional liability insurance, shall be written with insurance companies licensed to do business in the State of Illinois and having a rating of at least A according to the latest edition of the Best's Key Rating Guide; and shall include a provision preventing cancellation of the insurance policy unless fifteen (15) days prior written notice is given to the Village. This provision shall also be stated on each Certificate of Insurance: "Should any of the above described policies be canceled before the expiration date, the issuing company shall mail fifteen (15) days' written notice to the certificate holder named to the left." The Consultant shall require any of its subconsultants to secure and maintain insurance as set forth in this Section 6 and indemnify, hold harmless and defend the Village, its officers, officials, employees, agents and volunteers as set forth in this Agreement.

6.2. The limits of liability for the insurance required shall provide coverage for not less than the following amounts, or greater where required by law:

(A) **Commercial General Liability:**

- i. Coverage to include, Broad Form Property Damage, Contractual and Personal Injury.
- ii. Limits:

General Aggregate	\$ 2,000,000.00
Each Occurrence	\$ 1,000,000.00
Products Completed	\$ 1,000,000.00
- iii. Coverage for all claims arising out of the Consultant's operations or premises, anyone directly or indirectly employed by the Consultant.

(B) **Workers' Compensation:**

- i. Workers' compensation insurance shall be in accordance with the provisions of the laws of the State of Illinois, including occupational disease provisions, for all employees who work on the Project, and in case work is sublet, the Consultant shall require each subconsultant similarly to provide worker's compensation insurance. In case employees engaged in hazardous work under this Agreement are not protected under said worker's compensation insurance, the Consultant shall provide, and shall cause each subconsultant to provide, adequate and suitable insurance for the protection of employees not otherwise provided.

- (C) The Village, its officers, officials, employees, agents and volunteers shall be named as an additional insured on all insurance policies set forth herein except workers' compensation and professional liability. The Consultant shall be responsible for the payment of any deductibles for said insurance policies. The coverage shall contain no special limitations on the scope of protection afforded to the Village, its officers, employees, and volunteers.

6.3. The Village and the Consultant agree to waive against each other all claims for special, incidental, indirect, or consequential damages arising out of, resulting from, or in any way related to the Project.

6.4. The Consultant understands and agrees that any insurance protection required by this Agreement or otherwise provided by the Consultant, shall in no way limit the responsibility to indemnify, keep and save harmless, and defend the Village and its officers, officials, agents, employees and volunteers as herein provided. The Consultant waives and agrees to require its insurers to waive its rights of subrogation against the Village and its officers, officials, employees, agents and volunteers.

7. SUCCESSORS AND ASSIGNS.

7.1. The Village and the Consultant each bind themselves and their partners, successors, executors, administrators and assigns to the other party of this Agreement and to the partners, successors, executors, administrators and assigns of such other party in respect to all covenants of this Agreement. Except as above, neither the Village nor the Consultant shall assign, sublet or transfer its interest in this Agreement without the written consent of the other. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of any public body that may not be a party hereto, nor shall it be construed as giving any right or benefits hereunder to anyone other than the Village and the Consultant.

8. FORCE MAJEURE.

8.1. Neither the Consultant nor the Village shall be responsible for any delay caused by any contingency beyond their control, including, but not limited to: acts of nature, war or insurrection, strikes or lockouts, walkouts, fires, natural calamities, riots or demands or requirements of governmental agencies.

9. AMENDMENTS AND MODIFICATIONS.

9.1. This Agreement may be modified or amended from time to time provided, however, that no such amendment or modification shall be effective unless reduced to writing and duly authorized and signed by the authorized representative of the Village and the authorized representative of the Consultant.

10. STANDARD OF CARE.

10.1. The Consultant shall be responsible for the accuracy of its Services under this Agreement and shall promptly make revisions or corrections resulting from its errors, omissions, or negligent acts without additional compensation. The Village's acceptance of any of Consultant's Services shall not relieve Consultant of its responsibility to subsequently correct any such errors or omissions, provided the Village notifies Consultant thereof within one year of completion of the Consultant's Services.

10.2. The Consultant shall respond to the Village's notice of any errors and/or omissions within seven (7) days of written confirmation by the Consultant of the Village's notice. Such confirmation may be in the form of a facsimile confirmation receipt by the Village, or by actual hand delivery of written notice by the Village to the Consultant.

10.3. The Consultant shall comply with all federal, state, and local statutes, regulations, rules, ordinances, judicial decisions, and administrative rulings applicable to its performance under this Agreement.

11. SAVINGS CLAUSE.

11.1. If any provision of this Agreement, or the application of such provision, shall be rendered or declared invalid by a court of competent jurisdiction, or by reason of it requiring any steps, actions or results, the remaining parts or portions of this Agreement shall remain in full force and effect.

12. NON-WAIVER OF RIGHTS.

12.1. No failure of either party to exercise any power given to it hereunder or to insist upon strict compliance by the other party with its obligations hereunder, and no custom or

practice of the parties at variance with the terms hereof, nor any payment under this agreement shall constitute a waiver of either party's right to demand exact compliance with the terms hereof.

13. NO COLLUSION; CONFLICT OF INTEREST.

13.1. The Consultant hereby represents and certifies that the Consultant is not barred from contracting with a unit of state or local government as a result of: (1) a delinquency in the payment of any tax administered by the Illinois Department of Revenue unless Consultant is contesting, in accordance with the procedures established by the appropriate revenue Act, its liability for the tax or the amount of the tax, as set forth in 65 ILCS 5/11-42.1-1; or (2) a violation of either Section 33E-3 or Section 33E-4 of Article 33E of the Criminal Code of 1961, 720 ILCS 5/33E-1 *et seq.* The Consultant hereby represents that the only persons, firms, or corporations interested in this Agreement are those disclosed to the Village prior to the execution of this Agreement, and that this Agreement is made without collusion with any other person, firm, or corporation. If at any time it shall be found that Consultant has in procuring this Agreement, colluded with any other person, firm, or corporation, then the Consultant shall be liable to the Village for all loss or damage that the Village may suffer thereby, and this Agreement shall, at the Village's option, be null and void and subject to termination by the Village.

14. ENTIRE AGREEMENT.

14.1. This Agreement sets forth all the covenants, conditions and promises between the parties, and it supersedes all prior negotiations, statements or agreements, either written or oral, with regard to its subject matter. There are no covenants, promises, agreements, conditions or understandings between the parties, either oral or written, other than those contained in this Agreement.

15. GOVERNING LAW AND VENUE.

15.1. This Agreement shall be governed by the laws of the State of Illinois both as to interpretation and performance.

15.2. Venue for any action pursuant to this Agreement shall be in the Circuit Court of Cook County, Illinois.

16. NOTICE.

16.1. Any notice required to be given by this Agreement shall be deemed sufficient if made in writing and sent by certified mail, return receipt requested, by personal service, or by electronic mail to the persons and addresses indicated below or to such other addresses as either party hereto shall notify the other party of in writing pursuant to the provisions of this subsection:

If to the Village:

Village Manager
Village of Oak Park
123 Madison Street
Oak Park, Illinois 60302
Email: villagemanager@oak-park.us

If to the Consultant:

Liz Holt, Executive Director
OPRF Chamber of Commerce
143 S. Oak Park Ave
Oak Park, Illinois 60304
Email: infor@oprchamber.org

16.2. Mailing of such notice as and when above provided shall be equivalent to personal notice and shall be deemed to have been given at the time of mailing.

16.3. Notice by email transmission shall be effective as of date and time of email transmission, provided that the notice transmitted shall be sent on business days during business hours (9:00 a.m. to 5:00 p.m. Chicago time). In the event email notice is transmitted during non-business hours, the effective date and time of notice is the first hour of the first business day after transmission.

17. BINDING AUTHORITY.

17.1. The individuals executing this Agreement on behalf of the Consultant and the Village represent that they have the legal power, right, and actual authority to bind their respective parties to the terms and conditions of this Agreement.

18. HEADINGS AND TITLES.

18.1. The headings or titles of any provisions of this Agreement are for convenience or reference only and are not to be considered in construing this Agreement.

19. COUNTERPARTS; FACSIMILE OR PDF SIGNATURES.

19.1. This Agreement shall be executed in counterparts, each of which shall be considered an original and together shall be one and the same Agreement.

19.2. A facsimile or pdf copy of this Agreement and any signature(s) thereon will be considered for all purposes as an original.

20. EFFECTIVE DATE.

20.1. As used in this Agreement, the Effective Date of this Agreement shall be the last date of its execution by one of the parties as set forth below.

21. AUTHORIZATIONS.

21.1 The Consultant's authorized representatives who have executed this Agreement warrant that they have been lawfully authorized by the Consultant's board of directors or its by-laws to execute this Agreement on its behalf. The Village Manager warrants that she has been lawfully authorized to execute this Agreement. The Consultant and the Village shall deliver upon request to each other copies of all articles of incorporation, bylaws, resolutions, ordinances or other documents which evidence their legal authority to execute this Agreement on behalf of their respective parties.

22. EQUAL OPPORTUNITY EMPLOYER.

22.1. The Consultant is an equal opportunity employer and the requirements of 44 Ill. Adm. Code 750 APPENDIX A and Chapter 13 ("Human Rights") of the Oak Park Village Code are incorporated herein as though fully set forth. The Consultant shall not discriminate against any employee or applicant for employment because of race, sex, gender identity, gender expression, color, religion, ancestry, national origin, veteran status, sexual orientation, age, marital status, familial status, source of income, disability, housing status, military discharge status, or order of protection status or physical or mental disabilities that do not impair ability to work, and further that it will examine all job classifications to determine if minority persons or women are underutilized and will take appropriate affirmative action to rectify any such underutilization. The Consultant shall comply with all requirements of Chapter 13 ("Human Rights") of the Oak Park Village Code.

22.2. In the event of the Consultant's noncompliance with any provision of Chapter 13 ("Human Rights") of the Oak Park Village Code, the Illinois Human Rights Act or any other applicable law, the Consultant may be declared non-responsible and therefore ineligible for future Agreements or subcontracts with the Village, and the Agreement may be cancelled or voided in whole or in part, and such other sanctions or penalties may be imposed or remedies invoked as provided by statute or regulation.

22.3. In all solicitations or advertisements for employees placed by it on its behalf, the Consultant shall state that all applicants will be afforded equal opportunity without discrimination because of race, sex, gender identity, gender expression, color, religion, ancestry, national origin, veteran status, sexual orientation, age, marital status, familial status, source of income, disability, housing status, military discharge status, or order of protection status or physical or mental disabilities that do not impair ability to work.

**[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK –
SIGNATURE PAGE FOLLOWS]**

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be signed by their duly authorized representatives on the dates set forth below.

VILLAGE OF OAK PARK

OAK PARK-RIVER FOREST CHAMBER OF COMMERCE

By: Lisa Shelley
Its: Interim Village Manager

By: Liz Holt
Its: Executive Director

Dated: _____, 2021

Dated: _____, 2021

ATTEST

ATTEST

By: Christina M. Waters
Its: Village Clerk

By:
Its: