

**RESOLUTION 2019-045**

**A RESOLUTION APPROVING THE INDEPENDENT CONTRACTOR AGREEMENT FOR PROFESSIONAL SERVICES BETWEEN THE VILLAGE OF VERNON HILLS AND HENRY C. TONIGAN III FOR FURNISHING ADMINISTRATIVE HEARING OFFICER SERVICES FOR THE VILLAGE**

**WHEREAS**, the President and Board of Trustees of the Village of Vernon Hills, Illinois (the "Village") desire to hire Henry C. Tonigan III (the "Hearing Officer") as an independent contractor, to provide the services of an Administrative Hearing Officer pursuant to Section 28-7 (Organization and Composition) of the Village of Vernon Hills Code of Ordinances, to preside over municipal code violation cases and render decisions regarding the same, in accordance with the terms set forth in the attached "Independent Contractor Agreement for Professional Services" (the "Hearing Officer Agreement"), a copy of which is attached hereto as Exhibit "A" and made a part hereof; and

**WHEREAS**, the Village President is authorized to appoint persons to hold the position of Administrative Hearing Officer, pursuant to Section 28-7 of the Village of Vernon Hills Code of Ordinances, with the advice and consent of the Village Board; and

**WHEREAS**, the Village of Vernon Hills, a home rule Illinois municipal corporation, has the authority to approve and enter into the attached Hearing Officer Agreement (Exhibit "A") and to approve the expenditure of funds for the services performed by the Hearing Officer, pursuant to its home rule powers and contracting authority provided by Article VII, Sections 6 and 10(a) of the Illinois Constitution of 1970, and finds that entering into this Hearing Officer Agreement is in the best interests of the Village.

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

**SECTION 1:** Each Whereas paragraph above is incorporated by reference into this Section 1 and made a part hereof as material and operative provisions of this Resolution.

**SECTION 2:** The President and Board of Trustees of the Village Vernon Hills authorize the approval of the attached "Independent Contractor Agreement for Professional Services" (the "Hearing Officer Agreement"), (Exhibit "A"), to be entered into with Henry C. Tonigan III (the "Hearing Officer") for the purpose of presiding over municipal code violation cases and render decisions regarding the same.

**SECTION 3:** The President and Board of Trustees of the Village of Vernon Hills authorize and direct that the Village President, the Village Clerk, the Village Manager, the Hearing Officer and the Village Attorney, or their designees, transmit executed originals or certified copies of all documents, including the Hearing Officer Agreement, to all parties and agencies that are entitled to receive such documents, as required and directed by any other governmental oversight regulatory agency, in order to comply with the terms of the Hearing

Officer Agreement. Further, the President and Board of Trustees authorize and direct the Village President and Village Clerk, or their designees, to execute said Hearing Officer Agreement, and to execute and deliver all other instruments, payments and documents that are necessary to fulfill the Village's obligations under the Hearing Officer Agreement.

Dated this 19<sup>th</sup> day of November, 2019

Adopted by roll call vote as follows:

AYES: 7 – Oppenheim, Takaoka, Schultz, Marquardt, Koch, Brown, Byrne

NAYS: 0 - None

ABSENT AND NOT VOTING: 0 – None

Adopted this 19<sup>th</sup> day of November 2019, by the President and Board of Trustees of the Village of Vernon Hills, Illinois.

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

PASSED: 11/19/2019

APPROVED: 11/19/2019

ATTEST: 11/19/2019

  
\_\_\_\_\_  
Mark Fleischauer, Village Clerk

**EXHIBIT A**

**INDEPENDENT CONTRACTOR AGREEMENT FOR PROFESSIONAL SERVICES**

**VILLAGE OF VERNON HILLS**

**INDEPENDENT CONTRACTOR AGREEMENT FOR PROFESSIONAL SERVICES**

**(Administrative Hearing Officer)**

This **INDEPENDENT CONTRACTOR AGREEMENT** (the "Agreement") is made this \_\_\_\_ day of \_\_\_\_\_, 2019, by and between the Village of Vernon Hills (the "Village" or "Vernon Hills"), an Illinois home rule municipal corporation, with its principal office at 290 Evergreen Drive, Vernon Hills, Illinois, 60061, and Henry C. Tonigan III. (the "Hearing Officer") for purposes of the Hearing Officer providing certain professional services to the Village in the role of Hearing Officer for the Village's Administrative Adjudication program. The Village and the Hearing Officer are at times referred to herein individually as a "Party" and collectively as the "Parties."

**WHEREAS**, the Village seeks the services of an Administrative Hearing Officer pursuant to Section 22-332 (Administrative Composition) of the Village of Vernon Hills Code of Ordinances, to preside over municipal code violation cases and render decisions regarding the same.

**IN CONSIDERATION OF** the recitals and the mutual covenants and agreements set forth in this Agreement, and for other good and valuable consideration, the receipt of which is acknowledged, the Parties agree as follows:

**SECTION 1. HEARING OFFICER.**

**A. Engagement of Hearing Officer.** The Village desires to engage the Hearing Officer identified below to perform and to provide all necessary professional services to perform the duties of Administrative Hearing Officer for the Village's Administrative Adjudication program (the "Services"):

<b>Hearing Officer's Name ("Hearing Officer")</b>	Henry C. Tonigan III
<b>Address</b>	184 Biltmore Drive
<b>City, State, Zip</b>	North Barrington, Illinois 60010
<b>Phone</b>	(847) 894-2154
<b>Email</b>	htonigan@kelleherbuckley.com
<b>Project Name/Description</b>	Administrative Hearing Officer
<b>Fee Schedule for Services</b>	See attached <b>Exhibit "A"</b>
<b>Term</b>	No defined term. Position is at will.

**B. Position Description.** The Services to be performed by the Hearing Officer are described as follows: See "**Scope of Services and Fee Schedule for Services**" attached hereto as **Exhibit "A"** and made a part hereof.

**C. Representations of Hearing Officer.** The Hearing Officer represents that he is financially solvent, has the necessary financial resources and adequate, competent support staff, and is sufficiently experienced and competent to perform and complete the Services that are set forth in the **Scope of Services and Fee Schedule for**

**Services** attached hereto as Exhibit "A" ("**Services**") in a manner consistent with the standards of professional practice, care and diligence practiced by professionals who perform services of a similar nature in existence at the time of performance under this Agreement. The Hearing Officer represents that he is currently, and will maintain updated licensure with the Illinois Attorney Registration Committee, authorizing him to practice law in the State of Illinois, and is not currently subject to any censure, suspension or revocation of his license to practice law in the State of Illinois or any other jurisdiction. The Hearing Officer represents that he is currently certified to serve as an Administrative Hearing Officer in the State of Illinois.

**D. Independent Contractor.** The Hearing Officer is retained by the Village only for the purposes and to the extent set forth in this Agreement, and the Hearing Officer's relationship to the Village shall, during the term of this Agreement and period of its Services hereunder, be that of an independent contractor. The Hearing Officer shall be free to dispose of such portion of the Hearing Officer's entire time, energy and skill during regular business hours when the Hearing Officer is not obligated to devote time to performing his Services hereunder to the Village, in such manner as the Hearing Officer sees fit and to such persons, firms or corporations as the Hearing Officer deems advisable. It is acknowledged that, at all times, the Hearing Officer is separate and independent from the Village and that the Hearing Officer will utilize a high level of skill necessary to perform the Services assigned to him under this Agreement.

The Hearing Officer shall not be considered as having an employee status, nor shall the Village make any deductions or withhold any sums for the payment of any and all applicable federal, state, local and other taxes, income taxes, or FICA taxes. The Hearing Officer shall not be entitled to receive or participate in any employee plans, benefit programs, retirement plans or related employee benefit arrangements or distributions by the Village pertaining to or in connection with any pension or retirement plans, or any other benefits for the regular employees of the Village. As an independent contractor, it is the responsibility of the Hearing Officer to file all necessary tax returns (federal, state, county and local) and to make such required deductions and pay all income tax, social security, and any and all other taxes due as an independent contractor in his profession. As an independent contractor, the Hearing Officer agrees that he is ineligible to file a claim for unemployment compensation benefits or for workers compensation benefits against the Village and agrees not to file such any claims in the event this Agreement is terminated or if he is injured performing any Services under this Agreement. The Hearing Officer agrees to assume all risk of death, illness and injury relative to performing any Services under this Agreement. The Hearing Officer is an independent contractor and not the Village's employee for all purposes, including, but not limited to, the application of the Fair Labor Standards Act minimum wage and overtime payments, Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act and the Worker's Compensation Act (820 ILCS 305/1, *et seq.*).

**E. Equipment.** The Hearing Officer shall provide all of his own equipment required for the performance of the Services under this Agreement.

## **SECTION 2. SCOPE OF SERVICES.**

**A. Retention of the Hearing Officer.** The Village retains the Hearing Officer to perform, and the Hearing Officer agrees to perform, the Services as set forth in the **Scope of Services and Fee Schedule for Services** attached hereto as Exhibit "A".

**B. Services.** The Hearing Officer shall provide the Services pursuant to the terms and conditions of this Agreement.

**C. Commencement.** The Hearing Officer shall commence the Services immediately upon receipt of written notice from the Village that this Agreement has been fully executed by the Parties ("Commencement Date"). **The Hearing Officer shall diligently and continuously perform the Services until the completion of the Services or upon the termination of this Agreement.**

D. **Reporting.** Upon request, the Hearing Officer shall report to the Village's Village Manager, or his designee, regarding the progress of the Services during the term of this Agreement.

### **SECTION 3. COMPENSATION AND METHOD OF PAYMENT.**

A. **Fee for Services.** The total amount paid by the Village for the Services pursuant to this Agreement shall not exceed the amount identified in **Exhibit "A"**.

B. **Invoices and Payment.** The Hearing Officer shall submit invoices in the approved Village format to the Village Manager for the fees charged by the Hearing Officer for performing the Services. The amount billed in each invoice for the Services shall be based solely upon the rates set forth in **Exhibit "A"**. The Village shall pay to the Hearing Officer the amount billed within thirty (30) calendar days after receiving such an invoice.

C. **Records.** The Hearing Officer shall maintain records showing actual time devoted and type of work performed per classification and shall submit such records in support of its invoices, and shall permit the Village to inspect and audit all data and records of the Hearing Officer for work done pursuant to this Agreement.

D. **Additional Services.** The Hearing Officer acknowledges and agrees that the Village shall not be liable for any costs incurred by the Hearing Officer in connection with any services provided by the Hearing Officer that are outside the scope of this Agreement ("Additional Services"), regardless of whether such Additional Services are requested or directed by the Village, or anyone associated with the Village, except upon the prior written consent of the Village Manager.

E. **Taxes, Benefits and Royalties.** Each payment by the Village to the Hearing Officer includes all applicable federal, state and local taxes, fees, surcharges, license fees and tariffs of every kind and nature applicable to the Services, as well as all taxes, contributions, premiums, costs, royalties and fees arising from the use on, or the incorporation into, the Services, of patented or copyrighted equipment, materials, supplies, tools, appliances, devices, processes or inventions. All claims or rights to claim additional compensation by reason of the payment of any such tax, contribution, premium, cost, royalty or fee are hereby waived and released by the Hearing Officer. See also Subsection 1(D) above in regard to the obligation of the Hearing Officer to pay his/her own federal, state, local and other taxes, income taxes, or FICA taxes.

### **SECTION 4. CONFIDENTIAL INFORMATION.**

A. **Confidential Information.** The term "Confidential Information" shall mean information in the possession or under the control of the Village relating to the technical, business or corporate affairs of the Village; the Village property; user information, including, without limitation, any information pertaining to usage of the Village's computer system, including and without limitation any information obtained from server logs or other records of electronic or machine readable form; and the existence of, and terms and conditions of, this Agreement. The Village's Confidential Information shall not include information that can be demonstrated: (1) to have been rightfully in the possession of the Hearing Officer from a source other than the Village prior to the time of disclosure of such information to the Hearing Officer pursuant to this Agreement ("Time of Disclosure"); (2) to have been in the public domain prior to the Time of Disclosure; (3) to have become part of the public domain after the Time of Disclosure by a publication or by any other means except an unauthorized act or omission or breach of this Agreement on the part of the Hearing Officer or the Village; or (4) to have been supplied to the Hearing Officer after the Time of Disclosure without restriction by a third party who is under no obligation to the Village to maintain such information in confidence.

B. **No Disclosure of Confidential Information by the Hearing Officer.** The Hearing Officer acknowledges that he may, in performing the Services for the Village under this Agreement, have access, or be directly or indirectly exposed, to Confidential Information. The Hearing Officer shall hold confidential all Confidential Information and shall not disclose or use such Confidential Information without the express prior written consent of the Village Manager or his/her designee. The Hearing Officer shall use reasonable measures at least as strict as those the Hearing Officer uses to protect its own confidential information. Such measures shall

include, without limitation, requiring employees and subcontractors of the Hearing Officer to execute a non-disclosure agreement before obtaining access to Confidential Information.

## **SECTION 5. INSURANCE AND INDEMNIFICATION.**

**A. Insurance - Village.** The Village will not provide any form of insurance coverage, including but not limited to health insurance, worker's compensation insurance, auto insurance, general liability insurance, errors and omissions insurance, or professional liability insurance or other employee benefits for or on behalf of the Hearing Officer relative to his performance of the Services under this Agreement.

**B. Insurance – Hearing Officer.** The Hearing Officer, at his own cost, shall provide all of his own insurance coverages as applicable to the Services being performed, including but not limited to health insurance, worker's compensation insurance, auto insurance, general liability and property insurance, errors and omissions insurance, or professional liability insurance or other employee benefits for or on behalf of the Hearing Officer relative to his performance of the Services under this Agreement. The Hearing Officer's policy or policies of insurance shall specifically recognize and cover the indemnification obligations under this Agreement. Said insurance shall provide that the insurance provided by the Hearing Officer shall be primary and that any provision of any contract of insurance or other risk protection benefit or self-insurance policy purchased or in effect or enacted by the Village and any other insurance or benefit of the Village shall be in excess of the Hearing Officer's insurance.

**C. Indemnification.** To the fullest extent permitted by Illinois law, the Hearing Officer shall indemnify, defend and hold harmless the Village and each of its officers and officials, agents, attorneys, employees, engineers, volunteers and representatives from all claims, demands, lawsuits, actions, costs (including litigation expenses and Village's attorneys' fees) of any kind, caused by, resulting from, arising out of or occurring in connection with the Hearing Officer's performance of the Services under this Agreement, but only to the extent caused by the negligent act, misconduct or omission of the Hearing Officer or anyone or entity directly or indirectly employed by the Hearing Officer for whose acts Hearing Officer may be liable.

To the fullest extent permitted by Illinois law, the Village shall indemnify, defend and hold harmless Hearing Officer from all claims, demands, lawsuits, actions, costs (including litigation expenses and Hearing Officer's attorneys' fees) of any kind, caused by, resulting from, arising out of or occurring in connection with the Village's performance of the Services under this Agreement, but only to the extent caused by the negligent act, misconduct or omission of the Village or anyone or entity directly or indirectly employed by the Village for whose acts the Village may be liable.

**D. Waiver and Assumption of Liability.** The Hearing Officer assumes all liability for personal injuries or illness of any kind or death that might occur to himself while acting under this Agreement. The Hearing Officer assumes all liability and responsibility for his personal property while performing any work or Services under this Agreement.

**E. No Personal Liability.** No appointed official, agents, attorneys, employees, volunteers and representatives of the Village or any of its local government members shall be personally liable, in law or in contract, to the Hearing Officer as the result of the execution of this Agreement.

## **SECTION 6. GENERAL PROVISIONS.**

**A. Conflict of Interest.** The Hearing Officer represents and certifies that, to the best of his knowledge: (1) no elected or appointed the Village official, employee or agent has a personal financial interest in the business of the Hearing Officer or in this Agreement, or has personally received payment or other consideration for this Agreement; (2) as of the date of this Agreement, neither the Hearing Officer nor any person employed or associated with the Hearing Officer has any interest that would conflict in any manner or degree with the performance of the obligations under this Agreement; and (3) neither the Hearing Officer nor any person

employed by or associated with the Hearing Officer shall at any time during the term of this Agreement obtain or acquire any interest that would conflict in any manner or degree with the performance of the obligations under this Agreement.

**B. No Collusion.** The Hearing Officer represents and certifies that the Hearing Officer 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 the Hearing Officer 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 Section 11-42.1-1 *et seq.* of the Illinois Municipal Code, 65 ILCS 5/11-42.1-1 *et seq.*; 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 Hearing Officer represents that the only persons, firms or corporations interested in this Agreement as principals 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 the Hearing Officer has, in procuring this Agreement, colluded with any other person, firm or corporation, then the Hearing Officer shall be liable to the Village for all loss or damage that the Village may suffer, and this Agreement shall, at Village's option, be null and void.

**C. Termination.** Either Party may terminate this Agreement at any time for any reason upon written notice to the non-terminating Party. In the event that this Agreement is so terminated, the Hearing Officer shall be paid for Services actually performed and reimbursable expenses actually incurred, if any, prior to the date of the termination notice, provided that the Hearing Officer is not in default under this Agreement.

**D. Compliance With Laws and Grants.**

1. **Compliance with Laws.** The Hearing Officer shall give all notices, pay all fees, and take all other action that may be necessary to ensure that the Services are provided, performed and completed in accordance with all required governmental permits, licenses, or other approvals and authorizations that may be required in connection with providing, performing and completing the Services, and with all applicable statutes, ordinances, rules and regulations, including, without limitation: any applicable prevailing wage laws; the Fair Labor Standards Act; any statutes regarding qualification to do business; any statutes requiring preference to laborers of specified classes; any statutes prohibiting discrimination because of, or requiring affirmative action based on, race, creed, color, national origin, age, sex, or other prohibited classification, including, without limitation, the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101 *et seq.*, and the Illinois Human Rights Act, 775 ILCS 5/1-101 *et seq.* The Hearing Officer shall also comply with all conditions of any federal, state or local grant received by the Village or the Hearing Officer with respect to this Agreement or the Services. Further, the Hearing Officer shall maintain a written sexual harassment policy in compliance with Section 2-105 of the Illinois Human Rights Act. As required by Illinois law and Illinois Department of Human Rights ("IDHR") Regulations, the Equal Opportunity Employment clause is incorporated by reference in its entirety as though fully set forth herein. The Hearing Officer and the Village certify that they agree to comply with the Prohibition of Segregated Facilities clause, which is incorporated by reference in its entirety as though fully set forth herein. See, Illinois Human Rights Act (775 ILCS 5/2-105). See also, Illinois Department of Human Rights Rules and Regulations, Title 44, Part 750. Administrative Code, Title 44: Government Contracts, Procurement and Property Management, Subtitle B: Supplemental Procurement Rules, Chapter X: Department of Human Rights, Part 750: Procedures Applicable to All Agencies, Section 750.160: Segregated Facilities (44 Ill. Adm. Code 750.160)

2. **Liability for Noncompliance.** The Hearing Officer shall be solely liable for any fines or civil penalties that are imposed by any governmental or quasi-governmental agency or body that may arise, or be alleged to have arisen, out of or in connection with the Hearing Officer's, or any of its subcontractors, performance of, or failure to perform, the Services or any part thereof.

3. **Required Provisions.** Every provision of law required by law to be inserted into this Agreement shall be deemed to be inserted herein.

**E. Default.** If it should appear at any time that the Hearing Officer has failed or refused to perform,

or has delayed in the performance of, the Services with diligence at a rate that assures completion of the Services in full compliance with the requirements of this Agreement, or has otherwise failed, refused or delayed to perform or satisfy the Services or any other requirement of this Agreement ("Event of Default"), and fails to cure any such Event of Default within five (5) business days after the Hearing Officer's receipt of written notice of such Event of Default from the Village Manager, or his/her designee, then the Village shall have the right, without prejudice to any other remedies provided by law or equity, to pursue any one or more of the following remedies:

1. Cure by Hearing Officer. The Village may require the Hearing Officer, within a reasonable time, to complete or correct all or any part of the Services that are the subject of the Event of Default; and to take any or all other action necessary to bring the Hearing Officer and the Services into compliance with this Agreement.

2. Termination of Agreement by Village. The Village may terminate this Agreement without liability for further payment of amounts due or to become due under this Agreement after the effective date of termination.

3. Withholding of Payment by Village. The Village may withhold from any payment, whether or not previously approved, or may recover from the Hearing Officer, any and all costs, including attorneys' fees and administrative expenses, incurred by the Village as the result of any Event of Default by the Hearing Officer or as a result of actions taken by the Village in response to any Event of Default by the Hearing Officer.

**F. No Third-Party Agreements Without Village Approval.** The Village shall not be liable to any vendor or third party for any agreements of any kind made by the Hearing Officer without the knowledge and approval of the Village Manager.

**G. Mutual Cooperation.** The Village agrees to cooperate with the Hearing Officer in the performance of the Services, including meeting with the Hearing Officer and providing the Hearing Officer with direction and such non-confidential information that the Village may have that may be relevant and helpful to the Hearing Officer's performance of the Services. The Hearing Officer agrees to cooperate with the Village in the performance and completion of the Services and with any other individuals engaged by the Village to perform in the role of Hearing Officer.

**H. News Releases.** The Hearing Officer shall not issue any news releases, advertisements or other public statements regarding the Services or this Agreement without the prior written consent of the Village Manager.

**I. Ownership.** All documents of any kind, including any designs, drawings, plans, specifications, photos, reports, information, observations, calculations, notes, work product and any other data or information, in any form, worked on in cooperation with anyone employed by, retained by or affiliated with the Village or its contractors or prepared, collected or received from the Village by the Hearing Officer in connection with any or all of the Services performed under this Agreement ("Documents") shall be and remain the exclusive property of the Village. In consideration of payment of the Fee for Services, the Hearing Officer releases all copyright, proprietary or intellectual property rights in such Documents and transfers all his ownership rights in such Documents to the Village. At the Village's request, or upon termination of this Agreement, the Hearing Officer shall cause the Documents to be promptly delivered to the Village Manager.

**J. Amendment.** No amendment or modification to this Agreement shall be effective until it is reduced to writing and approved and executed by the Village and the Hearing Officer in accordance with all applicable statutory procedures.

**K. Assignment.** This Agreement may not be assigned by the Village or by the Hearing Officer without the prior written consent of the other Party.

**L. Binding Effect.** The terms of this Agreement shall bind and inure to the benefit of the Village, the Hearing Officer, and their agents, successors and assigns.

**M. Notice.** All notices required or permitted to be given under this Agreement shall be in writing and shall be delivered (1) personally, (2) by a reputable overnight courier, or (3) by certified mail, return receipt requested, and deposited in the U.S. Mail, postage prepaid. Unless otherwise expressly provided in this Agreement, notices shall be deemed received upon the earlier of: (a) actual receipt; (b) one (1) business day after deposit with an overnight courier, as evidenced by a receipt of deposit; or (c) four (4) business days following deposit in the U.S. mail, as evidenced by a return receipt. By notice complying with the requirements of this Section 6.M., each Party shall have the right to change the address or the addressee, or both, for all future notices and communications to the other Party, but no notice of a change of addressee or address shall be effective until actually received. Additionally, notices sent by any other means (i.e., facsimile, email, etc.) may be acceptable subject to written confirmation of both the transmission and receipt of the notice.

Notices and communications to the Village shall be addressed to, and delivered at, the following address:

Village Manager  
Village of Vernon Hills  
290 Evergreen Drive  
Vernon Hills, Illinois 60061  
Phone: (847) 918-3550  
Fax: (847) 367-0880  
Email: [mfleischhauer@vhills.org](mailto:mfleischhauer@vhills.org)

Notices and communications to the Hearing Officer shall be addressed to, and delivered at, the following address: **SEE CONTACT INFORMATION LISTED AT PAGE ONE ABOVE.**

**N. Provisions Severable.** If any term, covenant, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

**O. Time.** Time is of the essence in the performance of all terms and provisions of this Agreement.

**P. Governing Laws.** This Agreement shall be governed by, construed and enforced in accordance with the laws of the State of Illinois. Venue for any litigation shall be in the Circuit Court of Lake County, Illinois.

**Q. Authority to Execute.** The Parties both represent that this Agreement has been approved by their respective corporate boards and the persons executing this Agreement have been properly authorized to do so by its corporate authorities.

**R. Entire Agreement.** This Agreement constitutes the entire agreement between the Parties to this Agreement and supersedes all prior agreements and negotiations between the Parties, whether written or oral, relating to the subject matter of this Agreement.

**S. Waiver.** Neither the Village nor the Hearing Officer shall be under any obligation to exercise any of the rights granted to them in this Agreement except as it shall determine to be in its best interests from time to time. The failure of the Village or the Hearing Officer to exercise at any time any such rights shall not be deemed or construed as a waiver of that right, nor shall the failure void or affect the Village's or the Hearing Officer's right to enforce such rights or any other rights.

**T. Counterpart Execution.** This Agreement may be executed in several counterparts, each of which, when executed, shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

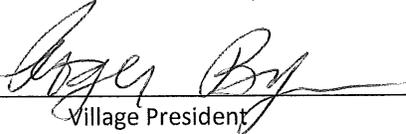
**U. Freedom of Information Act.** Section 7(2) of the Illinois Freedom of Information Act ("FOIA") (5 ILCS 120/7(2)) requires certain records that qualify as "public records," which have been prepared by and are in the possession of a party who has contracted with the Village, be turned over to the Village so that a FOIA requestor can inspect and photocopy the non-exempt portions of the public records pursuant to a FOIA request. The Village has a very short period of time from receipt of a FOIA request to comply with the request, and it

requires sufficient time to collect and review the records to decide what information is or is not exempt from disclosure. The Hearing Officer acknowledges the requirements of FOIA and agrees to comply with all requests made by the Village for public records (as that term is defined by Section 2(c) of FOIA) in the undersigned's possession and to provide the requested public records to the Village within two (2) business days of the request being made by the Village. The Hearing Officer agrees to indemnify and hold harmless the Village from all claims, costs, penalty, losses and injuries (including, but not limited to, attorneys' fees, other professional fees, court costs and/or arbitration or other dispute resolution costs) arising out of or relating to its failure to provide the public records to the Village under this Agreement.

**IN WITNESS WHEREOF**, the Village President and Village Manager, pursuant to the authority given by the Board of Trustees of the Village of Vernon Hills, and the Hearing Officer have signed this Agreement, and the date of the last signatory will be the effective date of this Agreement and that date has been entered on the first page of this Agreement.

**VILLAGE OF VERNON HILLS,**  
an Illinois home rule municipal corporation

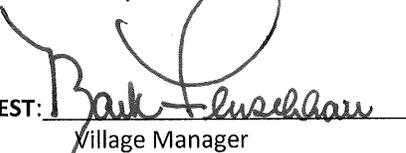
**HENRY C. TONIGAN III**

BY:   
Village President

BY: \_\_\_\_\_  
Henry C. Tonigan III

Date: 12/10, 2019

Date: \_\_\_\_\_, 2019

ATTEST:   
Village Manager

ATTEST: \_\_\_\_\_  
Witness

Date: 12/81, 2019

Date: \_\_\_\_\_, 2019

**Exhibit "A"**

**SCOPE OF SERVICES  
AND  
FEE SCHEDULE FOR SERVICES AS OF JANUARY 1, 2020**

**SCOPE OF SERVICES:**

- Serve as a hearing officer for the Village of Vernon Hills Administrative Adjudication program on a predetermined day(s) and time(s) each month, not to exceed one (1) days per month;
- Preside over adjudicatory hearings, including, but not limited to, hearing testimony, accepting relevant evidence, asking questions of the parties and witnesses, and administering oaths and affirmations to witnesses;
- Issue subpoenas when appropriate to the case;
- Preserve the record of the hearing, including all admitted exhibits and evidence;
- Issue a written, signed determination regarding the Village of Vernon Hills code violation based on a review of the charging document and evidence admitted at the hearing;
- Impose penalties; fines; a term of community service; administrative and/or enforcement costs; or, if appropriate to the case, require compliance with relevant provisions of the Village of Vernon Hills Code of Ordinances, including ordering a compliance bond;
- Adhere to the applicable policies, procedures and ordinances set forth in the Village of Vernon Hills Code of Ordinances; and
- Regulate the course of the hearing in accordance with any rule and regulations promulgated or adopted by the Administrative Adjudication program.

**FEE FOR SERVICES:**

- Rate of Pay: \$170.00 per hour

The hours worked shall only account for time physically spent at the Village presiding over administrative hearings, and shall not include travel time. The Hearing Officer will be reimbursed for any necessary overnight deliveries or computer research based on actual cost to the Hearing Officer. The Hearing Officer will be reimbursed at a rate of \$0.10 per page for any necessary copying in excess of twenty-five pages.

- Schedule of Hours: **Third Thursday of each month, beginning at 9:00 a.m., (until hearings conclude)**  
(the frequency of these dates is subject to change, in the event that they fall on a holiday or any other day in which the Village's offices are closed)

**TERM OF AGREEMENT:**

No defined term. Position is at will.

This Exhibit "A" is dated:                     , 2019