Ordinance No. 24 - 4360

AN ORDINANCE APPROVING AND AUTHORIZING THE EXECUTION OF AN AGREEMENT WITH SB FRIEDMAN DEVELOPMENT ADVISORS, LLC FOR CONSULTING SERVICES TO BE PROVIDED TO THE VILLAGE OF BARRINGTON RELATIVE TO TAX INCREMENT FINANCING FOR A POTENTIAL TIF DISTRICT

WHEREAS, pursuant to the statutory authority of the Village of Barrington ("the Village"), the Village wishes to enter into a contact for Tax Increment Financing consulting services and to authorize and accept the proposal dated December 7, 2023 with regard to a potential TIF district roughly bounded by North Hough Street to the East and the UP and CN/EJ&E railroad tracks to the Northwest and Southwest at a total not-to-exceed cost of $34,385.00 (the "SB Friedman Proposal") received from SB Friedman Development Advisors, LLC, 70 W. Madison Street, Suite 3700, Chicago, IL 60602 ("SB Friedman") attached hereto as part of Group Exhibit A and thereby made a part hereof; and

WHEREAS, the tax increment financing consulting services to be provided by SB Friedman are proposed to consist of four (4) phases and will include but not be limited to working with Village staff to conduct a full TIF district designation process by: (1) preparing a TIF eligibility study, (2) preparing a Redevelopment Plan and project documentation, (3) preparing mailing lists and support a required notice process, as well as (4) supporting a public review process (collectively, the "proposed TIF consulting services"); and

WHEREAS, the Corporate Authorities of the Village find that it is in the best interests of the Village and its residents to authorize the Village to accept the SB Friedman Proposal for the proposed TIF consulting services at a not-to-exceed cost of $34,385.00 and to approve and execute the related SB Friedman Proposal December 7, 2023 and the related Agreement Between the Village of Barrington and SB Friedman Development Advisors, LLC, attached hereto as Group Exhibit A and thereby made a part hereof:

NOW, THEREFORE, BE IT ORDAINED by the President and Board of Trustees of the Village of Barrington, Cook and Lake Counties, Illinois, pursuant to the authority of this Village as a Home Rule unit, as follows:

SECTION 1: The Corporate Authorities find that the facts set forth in the preamble to this Ordinance are true and correct and are hereby incorporated by reference as fully as if set forth herein.

SECTION 2: The SB Friedman Proposal dated December 7, 2023 as well as the related Agreement Between the Village of Barrington and SB Friedman Development Advisors, LLC attached hereto as Group Exhibit A and thereby expressly made a part hereof, are hereby accepted and approved by the Corporate Authorities of the Village and a contract is hereby awarded to SB Friedman Development Advisors, LLC to provide to the Village the aforesaid proposed TIF consulting services with regard to the development of a potential TIF district roughly bounded by North Hough Street to the East and the UP and CN/EJ&E railroad tracks to the Northwest and Southwest at a total not-to-exceed cost of $34,385.00, and pursuant to Section 1-6A-6 of the

Barrington Village Code, the Corporate Authorities hereby waive any and all requirements for competitive bidding or alternative proposals which might otherwise be required by law or by ordinance with respect to the aforesaid contract with SB Friedman Development Advisors, LLC.

SECTION 3: The Village President, or her designee, is hereby authorized on behalf of the Village to accept and execute and the Village Clerk is authorized to attest and deliver to SB Friedman Development Advisors, LLC executed originals of both the SB Friedman Proposal dated December 7, 2023 and the related Agreement Between the Village of Barrington and SB Friedman Development Advisors, LLC attached hereto as Group Exhibit A and thereby made a part hereof, which collectively constitute and are referred to herein as "the Contract" and which are all attached hereto as Group Exhibit A and expressly made a part hereof, and to take all other necessary and appropriate actions to accomplish and implement said purchase as herein provided.

SECTION 4: This Ordinance shall be in full force and effect from and after its passage as provided by law.

PASSED THIS 8 DAY OF JANUARY, 2024, BY ROLL CALL VOTE AS FOLLOWS:

AYES: Trustees Johnson, Sholeen, Andrade, Duncan, Moran, Prigge, President Darch

NAYS: None

ABSENT: None

RECUSE: None

APPROVED THIS 8TH DAY OF JANUARY, 2024

Karen Darch, Village President

ATTESTED AND FILED THIS 8TH DAY OF JANUARY, 2024

Tony Ciganek, Village Clerk

Village of Barrington CORPORATE SEAL Cook & Lake Counties, IL

GROUP EXHIBIT A

(1) SB Friedman Proposal dated December 7, 2023 at a not-to-exceed cost of $34,385.00, and
(2) Agreement Between the Village of Barrington and SB Friedman Development Advisors, LLC

SBFRIEDMAN

VISION
ECONOMICS
STRATEGY #
FINANCE
IMPLEMENTATION

December 7, 2023

Mr. Scott Anderson
Village Manager
Village of Barrington
200 S. Hough Street
Barrington, IL 60010

RE: Proposed Downtown TIF District Designation Support

Dear Mr. Anderson,

Pursuant to our recent discussions, SB Friedman Development Advisors, LLC (SB Friedman) is pleased to present this proposal to the Village of Barrington (the "Village") to provide tax increment financing ("TIF") consulting services for a potential TIF district roughly bounded by North Hough Street to the east and the railroad tracks to the northwest and southwest.

Background and Approach

It is our understanding that the Village is interested in encouraging private investment and supporting development/redevelopment in the "Study Area" as shown in **Map 1** on the following page. It is our understanding that the Village is considering establishing a TIF district as a potential source of funds to help pay for improvements required to make development feasible and seeks assistance in evaluating the eligibility of and designating a potential TIF district for the Study Area. At key steps in the process, we anticipate engaging with Village staff and the Village attorney.

SB Friedman proposes to support the Village's effort to establish a TIF district for the Study Area. Under this scope of services, SB Friedman will work with Village staff to conduct a full TIF district designation process for the Study Area. We have organized our scope of services for this assignment into four primary phases:

1) Conduct TIF Eligibility Reconnaissance Study
2) Prepare Redevelopment Plan and Project Document
3) Prepare Mailing Lists and Support Notice Process
4) Support Public Review Process

We will begin the engagement by conducting a TIF Eligibility Reconnaissance Study. **At the completion of the phase of work, we will check in with you before proceeding.** Assuming some or all of the Study Area is eligible and the Village wants to move forward, the designation support process would include documentation of our findings in a formal Eligibility Report, preparation of the Redevelopment Plan and Project document, and assisting the Village with the public deliberation process, including preparation of mailing lists. It appears that there are no housing units in the Study Area. Thus, for budgeting purposes, we have assumed that a Housing Impact Study will not be required.

SB Friedman has broad and deep experience in all aspects of TIF, such as: TIF district designation and amendment,

including preparing housing impact studies; developing incremental property tax projections for TIF assistance requests and underwriting of various financing obligations; supporting the negotiation of term sheets and redevelopment agreements; and documenting and supporting TIF compliance activities. We are noted for our rigorous analyses of TIF eligibility, feasibility, and the market, fiscal, economic and related aspects of public-private development projects.

Map 1: Study Area

Scope of Services

Our proposed scope of services and work steps for each phase are as follows:

PHASE 1: CONDUCT TIF ELIGIBILITY RECONNAISSANCE STUDY

1) Conduct Project Kickoff Call

We will conduct a kickoff call with the Village to:

- Discuss the project scope and timeframe;
- Confirm the initial Study Area boundary;

- Review existing documents compiled by the Village, including the Village's first and current Comprehensive Plans and current zoning map;
- Identify additional key sources of data that we will need for our analysis, and

2) Obtain and Examine Necessary Data

We will pursue key data to determine whether the Study Area qualifies for TIF district designation, based on the criteria outlined in the TIF Act. To complete our Eligibility Reconnaissance Study, we will:

- Obtain current GIS parcel shape files and/or existing base maps from the Village and/or Lake County, and prepare internal base maps;
- Obtain and review building age data;
- Obtain and review five-year history of building permit data for parcels within the Study Area;
- Obtain information about infrastructure capacity and condition from the Department of Public Works, as available;
- Prepare PIN list, and order and enter taxpayer data
- Analyze six-year history of equalized assessed values (EAV) for the Study Area and Village; and
- Enter, proof and map eligibility criteria, as required.

3) Conduct Fieldwork

We will conduct field research for the Study Area to document field-observable eligibility factors. We anticipate one day of field research in the Village for two staff members.

4) Analyze EAV Growth

We will analyze the growth in EAV over the past six years (five year-to-year periods) and compare Study Area growth to Village growth and Consumer Price Index growth over those periods.

5) Analyze Additional Eligibility Factors/Required Findings and Tests

Based on our field research and other data, we will assess the presence and distribution of factors to establish eligibility and to meet the "but for..." and "lack of growth through private investment" requirements, as outlined in the Act. The eligibility findings will be documented in a series of maps for the Study Area. If for any reason the Study Area does not qualify for a TIF district designation, we will meet with you to discuss potential strategies at that point.

6) Prepare Eligibility Study Summary

We will prepare slides documenting the findings of our eligibility research, including maps and tables.

7) Conduct Call with Village

We will conduct a call with the Village to discuss our findings and recommendations.

At this point, we will seek further direction/authorization from the Village before proceeding.

PHASE 2: FINALIZE ELIGIBILITY RESEARCH AND PREPARE REDEVELOPMENT PLAN AND PROJECT DOCUMENT

1) Prepare Maps of the Proposed TIF District

A series of maps of the proposed TIF district will be prepared for inclusion in the Redevelopment Plan and Project document. These maps will include: the proposed boundary, documented distribution of eligibility factors, existing land use, and future land use.

2) Obtain and Proof Boundary Legal Description

We will engage and manage a licensed surveyor on the Village's behalf to draft a boundary legal description for the proposed TIF district. If the Village prefers to work with a particular surveyor, we will engage with that company. Otherwise, we can use a surveyor with whom we have worked in the past. To ensure accuracy of the boundary legal description, we will proof the description. We will work with Lake County to ensure that they are comfortable with the legal description prior to filing the TIF plan with the Village Clerk.

3) Prepare Draft of Redevelopment Plan and Project (Redevelopment Plan) Document

We will prepare a Redevelopment Plan and Project document for the proposed TIF district. We assume this will represent the second half of the combined Eligibility Report and Redevelopment Plan and Project Document. As required by the Act, the Eligibility Report and Redevelopment Plan document will include:

- Redevelopment Project Area (RPA) Description
- Boundary Legal Description of the RPA
- Summary of Blight/Conservation Area Conditions and Analysis of Eligibility Factors
- Redevelopment Plan Goals, Objectives and Strategy
- Future Land Use Map
- Most Recent EAV and Estimated Future EAV
- Estimated Redevelopment Project Costs (line-item budget)
- Assessment of Impacts on Other Taxing Districts
- Affirmative Action Plan
- Statement of Conformance with Other Community Plans

Preliminary projections of incremental property taxes from the TIF district will be prepared to confirm the supportable budget for the TIF plan and estimating the future EAV of the Redevelopment Project Area, as required by the Act.

We will prepare a final Eligibility Report and Redevelopment Plan and Project document combining the Eligibility Study, redevelopment Plan, legal description, appropriate maps, and other required documentation. We anticipate first preparing draft documents to be distributed to and reviewed by the Village. Any revisions to the draft Plan documents will be incorporated into the final Redevelopment Plan document, which will be filed with the Village Clerk at least 10 days prior to introduction to the Village Board.

PHASE 3: PREPARE MAILING LISTS AND SUPPORT NOTICE PROCESS

1) Create Mailing Lists for Noticing

The Act requires that municipalities make a good faith effort to provide notice of the availability of the Eligibility Report and Redevelopment Plan and how to obtain the report by mail to all residential addresses within 750 feet of the boundary of any proposed TIF district. We will prepare a map identifying this buffer area. We will conduct fieldwork to gather the addresses in this area as part of our initial fieldwork. Additionally, we will prepare other mailing lists for noticing, as required by the Act.

Our scope includes preparation of the following mailing lists:

- Affected taxing bodies and Illinois Department of Commerce & Economic Opportunity
- Taxpayers within the proposed TIF area
- Taxpayers of properties within the proposed TIF area for which taxes were not paid in the prior year
- Residential addresses within 750 feet of the TIF boundary

The Village may elect to engage a mailing company for preparation and distribution of the mailings or to prepare the mailings using Village staff resources.

2) Support Notice and Approval Process

We assume that the Village will print and prepare the mailings and publish required notices in local newspapers. We will coordinate with the Village to ensure all mailing addresses are provided in a timely fashion.

We assume that the Village's legal counsel will establish and manage a timeline for mailings, meetings and noticing based on state law, the overall project timeline, newspaper publishing dates, and the Village Board meeting schedule.

PHASE 4: SUPPORT PUBLIC REVIEW PROCESS

We will attend and, as appropriate, make presentations at the two key meetings that are part of the review process as provided in the Act. These meetings include the Joint Review Board Meeting and the Public Hearing, both of which we assume will be held in person. We are available for additional meetings or public presentations, as described in the "Additional Services" section below.

Timeframe and Fees

Based on the scope of the work outlined herein and our experience with similar projects, we estimate it will take approximately 30 to 45 days to complete the TIF Eligibility Reconnaissance Study, 30 to 45 days to complete the Redevelopment Plan and Project, and 90 to 120 days to complete the public approval process. However, we will work with you to meet any specific deadlines, where possible.

Professional fees for our services will be based on the time required at the billing rates of the SB Friedman personnel assigned to the project. The scope of the engagement and our experience with similar services indicate that our professional fees and expenses will total **$34,385**, as shown in the detailed budget.

Phase 1: Conduct TIF Eligibility Reconnaissance Study	$15,220
Phase 2: Prepare Redevelopment Plan and Project Document	$9,910
Phase 3: Prepare Mailing Lists and Support Notice Process	$3,295
Phase 4: Support Public Review Process	$5,460
General Expenses	$500
TOTAL SB FRIEDMAN FEES AND EXPENSES	**$34,385**

Other expenses to be incurred directly by the Village:

- Surveyor - Boundary Legal Description

This fee estimate is based upon the detailed work steps and time budgets shown in the attached budget table. Actual billings will be based on time expended at our municipal that are currently as follows:

Senior Vice President	$350
Vice President	$290
Senior Project Manager	$280
Project Manager	$265
Associate Project Manager	$245
Senior Associate	$230
Associate	$205
Research Associate	$190

Travel, publications, maps, outside data, report reproduction, and other out-of-pocket expenses will be billed as incurred without mark-up. We anticipate that the Village will publish notices in the local paper and have not included an allowance for these costs.

This fee estimate is subject to revision if the engagement entails more time than estimated due to problems that are encountered that could not reasonably have been foreseen at the commencement of the engagement or if the scope is changed. In this event, we will discuss the matter with you so that a mutually acceptable revision may be made. If the time spent on this engagement is substantially less than we have estimated, we will bill you a lesser amount.

This estimate contemplates our in-person attendance at the following meetings:

- Joint Review Board Meeting
- Public Hearing

Additional meeting time and additional services, beyond what has been included in the budget, will be billed at the project rates outlined above.

Invoices will be rendered not more frequently than monthly as our work progresses for services and costs incurred. These invoices are payable within 30 days. If at any point the decision is made to discontinue our services, our fee will be based upon the actual time expended and out-of-pocket costs incurred to that date.

Additional Services

If additional meetings are required, we are able to attend and present our findings at the billing rates provided below.

Acceptance Procedures

We appreciate the opportunity to continue to assist the Village. To indicate your acceptance of this proposal, please sign and return it to us as authorization for us to proceed.

Sincerely,

Geoffrey Dickinson, AICP
Senior Vice President
SB Friedman Development Advisors, LLC

Accepted:

Signature Date

Name Title

DETAILED BUDGET

		Senior Vice President	Senior Associate	Associate
Person:				
Rate:		$ 350	$ 230	$ 205
Phase 1: Conduct TIF Eligibility Reconnaissance Study				
Conduct Project Kickoff Call		1	1	1
Obtain/Examine Existing Reports/Data			2	4
Conduct Fieldwork			2	24
Analyze EAV Growth			2	4
Analyze Additional Eligibility Items		2	4	8
Prepare Eligibility Study Summary		1	2	8
Conduct Call with Village		1	1	1
Subtotal Hours for Phase 1-Conduct Eligibility Recon Study	69	5	14	50
Subtotal Dollars for Phase 1-Conduct Eligibility Recon Study	$ 15,220	$ 1,750	$ 3,220	$ 10,250
Phase 2: Finalize Eligibility Research and Prepare Redevelopment Plan and Project Document				
Prepare Maps of the Proposed TIF District		1	3	12
Obtain and Proof Boundary Legal Description		1	2	4
Prepare Draft of Redevelopment Plan and Project (Redevelopment Plan) Document		4	4	12
Subtotal Hours for Phase 2-Prepare Redevelopment Plan	43	6	9	28
Subtotal Dollars for Phase 2-Prepare Redevelopment Plan	$ 9,910	$ 2,100	$ 2,070	$ 5,740
Phase 3: Prepare Mailing Lists and Support Notice Process				
Create Mailing Lists for Noticing				
A. Prepare Buffer Map				2
B. Conduct Fieldwork and Collect Addresses (included as part of initial fieldwork)				0
C. Enter Addresses/Obtain Postal Information			1	4
D. Compile/Proof List for Mailing			1	4
Support Notice and Approval Process		1	1	1
Print/Package/Mail All Applicable Notices		Assumed Completed by Village		
Subtotal Hours for Phase 3-Prepare Mailing Lists	15	1	3	11
Subtotal Dollars for Phase 3-Prepare Mailing Lists	$ 3,295	$ 350	$ 690	$ 2,255
Phase 4: Support Public Review Process				
Prepare/Attend/Present at Joint Review Board Meeting		4	4	2
Prepare/Attend/Present at Public Hearing		4	4	2
Subtotal Hours for Phase 4-Support Public Review Process	20	8	8	4
Subtotal Dollars for Phase 4-Support Public Review Process	$ 5,460	$ 2,800	$ 1,840	$ 820
Total Hours	147	20	34	93
Total Dollars	$ 33,885	$ 7,000	$ 7,820	$ 19,065
General Expenses	$ 500			
TOTAL BUDGET FOR PHASES 1 - 4	$ 34,385			
Allowance for Boundary Legal	Assumed incurred directly by Village			
Allowance for Flooding Memo	Assumed incurred directly by Village			
Mailing Costs and Title Company Tax Delinquency Research	None Assumed			
TOTAL ESTIMATED PROJECT BUDGET	$ 34,385			

AGREEMENT BETWEEN THE VILLAGE OF BARRINGTON AND SB FRIEDMAN DEVELOPMENT ADVISORS, LLC FOR TAX INCREMENT FINANCING ("TIF") CONSULTING SERVICES

THIS AGREEMENT (hereinafter, the "Agreement") is made this 8th day of January 2024, by and between the VILLAGE OF BARRINGTON (hereinafter referred to as "Village") and SB FRIEDMAN DEVELOPMENT ADVISORS, LLC, 70 W. Madison Street, Suite 3700, Chicago, IL 60602 (hereinafter referred to as "Consultant") (the Village and the Consultant are sometimes referred to herein as the "Parties") for the performance of certain professional consulting services for the Village which are proposed to consist of four (4) phases with regard to the development of a potential TIF district roughly bounded by North Hough Street to the East and the railroad tracks to the Northwest and Southwest, including but not limited to working with the Village staff to conduct a full TIF district designation process by: (1) preparing a preliminary TIF eligibility study, (2) preparing a Redevelopment Plan and project documentation, (3) preparing mailing lists and supporting a required notice process, as well as (4) supporting a public review process (collectively referred to herein as the "Project", the "Work", or the "Services") at a not-to-exceed cost of $34,385.00 pursuant to the Consultant's Proposal dated December 7, 2023 (hereinafter referred to as the "Consultant's Proposal"), a copy of which is attached hereto as Exhibit A and thereby made a part hereof. This Agreement and the Consultant's Proposal shall constitute the Contract Documents (sometimes collectively referred to herein as the "Contract" or the "Contract Documents"). In the event of any conflict between the Consultant's Proposal and this Agreement, the provisions of this Agreement shall supersede, prevail, and control.

WITNESSETH:

In consideration of the mutual promises and covenants set forth herein, the Parties agree as follows:

1. Scope of Services: The Consultant agrees to and shall timely perform and fully complete all of the Services relative to the Project as set forth in the Consultant's Proposal dated December 7, 2023 attached hereto and made a part of this Agreement as Exhibit A (the "Services").

2. Payment:

   A. Not to Exceed Payment: The Village agrees to pay the Consultant, and the Consultant agrees to accept as compensation for all Services required by this Agreement the amount(s) set forth as follows:
      - ☒ the amount(s) set forth in the Consultant's Proposal; and
      - ☒ subject to a not-to-exceed amount of $34,385.00 ("Contract Price")

   B. Invoices for Payments: The Consultant agrees to and shall prepare and submit:
      - ☐ an invoice to the Village which the Village shall pay upon completion and approval of the Services; or
      - ☐ invoices for progress payments to the Village as hereinafter set forth for Services completed to date. Invoices shall be prepared monthly and shall document the time/hours expended as the Services are completed to date by the Consultant; or
      - ☒ Progress Payments: Phase 1, Phase 2, Phase 3, and Phase 4 as set forth in the Detailed Budget which is part of the Consultant's Proposal dated December 7, 2023.

   C. Village's Compliance with the Illinois Local Government Prompt Payment Act (50 ILCS 505/1, et seq.) (the "Act). The Consultant and the Village both acknowledge and agree that the Village complies with the Act, which states that any bills approved for payment shall be paid within thirty (30) days after date of approval of the Consultant's invoice by the Corporate Authorities of the Village, and the parties both also agree that any payment(s) due to the Consultant for Services rendered or to be rendered to the Village shall be paid by the Village pursuant to the provisions of the Act. Notwithstanding any other provisions of any Contract Document, the Village shall not, in any manner, be considered to have accepted the Services, or any part thereof, or to have waived any claim related to such Services by making a final payment or by making any progress payment of any amount, where the Village determines that such Services, or part thereof, are defective, deficient, or not in conformance with the Contract Documents.

3. Contract Documents: The term "Contract Documents" means and includes, but is not limited to, the following, which are each attached hereto and thereby made a part hereof:
   A. This Agreement
   B. The Consultant's Proposal dated December 7, 2023
   In the event of any conflict between this Agreement and any other Contract Document, this Agreement shall prevail and control over the terms and conditions set forth in such other Contract Documents.

4. Time is of the Essence; Dates of Commencement and Completion: Time is of the essence in this Contract. The Services to be performed by the Consultant under the Contract Documents shall commence no later than January 9, 2024 (hereinafter the "Commencement Date"), and shall be completed no later than within the "Timeframe" set forth in the Consultant's proposal (hereinafter the "Completion Date"), barring only Acts of God, due to which the Completion Date may be modified in writing with the prior approval of the Village. If the Consultant fails to complete the Services by the Completion Date, the Village shall thereafter have the right to have the Services completed by another independent contractor, and in such event, the Village shall have the right to deduct the cost of such completion so incurred by the Village from payments otherwise due to the Consultant for the Services and/or the right to recover any excess cost of completion from the Consultant to the extent that the total cost incurred by the Village for the completion of the Services which are the subject of the Contract Documents exceeds the Contract Price.

5. Venue and Choice of Law: The Consultant and the Village agree that the venue for any and all disputes shall solely be in Cook County, Illinois, in which the Village's Village Hall is located. This Agreement and all other Contract Documents shall be construed and interpreted in accordance with the laws of the State of Illinois.

6. Nonassignability. The Consultant shall not assign this Contract, or any part thereof, to any other person, firm, or corporation without the prior written consent of the Village, and in no case shall such consent relieve the Consultant or its surety from the obligations herein entered into by the same or change the terms of this Contract.

7. Notices. All notices required by the Contract Documents shall be given in writing and shall be served by one party to the other party via email (effective when transmitted), facsimile (effective when transmitted), personal delivery (effective when delivered), commercial overnight delivery (effective when delivered), or by mail (effective when mailed).

8. Right to Alter Scope of Services Reserved: The Village reserves the right to alter the plans, extend or reduce the Scope of Services, add to the Scope of Services as may be necessary, and increase or decrease the scope and/or quantity of the Services, including the deduction or cancellation of any one or more of the unit price items, or to cancel the Contract and the Services in their entirety for any reason.

9. Control and Review of Services: Unless otherwise specified in the Contract Documents, review, acceptance or rejection of Services shall be made after delivery thereof. Final review, acceptance and/or rejection of the Services shall not impose liability on the Village for Services not in compliance with the Contract Documents as determined solely by the Village. Payment to the Consultant shall not be due on rejected Services until and unless fully corrected and/or replaced by the Consultant as determined by the Village. All Services provided by the Consultant shall be performed in compliance with this Agreement and the other Contract Documents as determined solely by the Village, and this Agreement shall control.

10. Timely Written Response and Written Report(s) of Resolution Relative to Certain Incident(s), Claim(s) and/or Complaint(s):

    A. All alleged incident(s), claim(s), or complaint(s) related to any alleged death, injury and/or damage to persons and/or to public or private property related to the Consultant's work or Services provided pursuant to this Contract shall be reported to the Village and resolved by the Consultant and/or its agent in a timely manner.

B. Within three (3) business days after receipt by Consultant of an initial written or verbal notice of any such incident, claim, or complaint, the Consultant shall also provide to the Village, and to any third-party making such claim or complaint, the name, telephone number, and cellular number of the Consultant's officer or employee who will be responsible for managing the resolution thereof until its final resolution by the Consultant and/or by the Consultant's insurer or agent.

C. Within ten (10) business days after the Consultant's receipt of the first notice of an alleged incident, claim, or complaint related to any alleged death, injury, and/or damage to persons and/or to public or private property (the "incident, claim, or complaint"), the Consultant or its agent(s) shall provide to the Village and to any third-party person making such claim or complaint an initial written response relative to such incident, claim or complaint, and the efforts and current progress of the Consultant and/or its agents to date toward the resolution of such incident, claim or complaint.

D. If complete resolution of the incident, claim, or complaint has not been reached within the aforesaid ten (10) business day period, the Consultant or its agent shall continue to use all reasonable efforts to fully resolve the incident, claim, or complaint, and to that end, further updated written status reports of resolution, or progress toward resolution, as the case may be, of such incident, claim, or complaint shall be provided to the Village by the Consultant not less than monthly until such incident, claim, or complaint is fully resolved.

E. The Consultant or its agents will be expected to fully resolve most incident(s), claim(s), or complaint(s) involving minor damage to public or private property within said initial ten (10) business day period after the Consultant receives its initial verbal or written notice of such incident, claim, or complaint.

11. Insurance:

A. Prior to Commencement of Work and/or Services:

(i) Prior to commencement of providing any Services under the Contract Documents, Consultant shall supply to the Village certificates of insurance as specified below, provided, however, these insurance requirements shall not be applicable to any Contract which is only for the purchase of goods by the Village. Consultant shall not start the Services contemplated by the Contract until Consultant has obtained all insurance required under this Paragraph 11, and all such insurance coverage has been obtained and approved by the Village Manager, or his designee.

(ii) Minimum Scope of Insurance: Coverage shall be at least as broad as Insurance Services Office ("ISO") Commercial General Liability occurrence form CG 00 01 04 13 with the "Village of Barrington and its elected and appointed officers, officials, employees, agents and volunteers" named as additional insureds on a primary and non-contributory basis. This primary, non-contributory additional insured coverage shall be confirmed through the following required policy endorsements (or their substantial equivalents): ISO Additional Insured Endorsement CG 20 10 04 13 or CG 20 26 04 13, and CG 20 01 04.

B. Insurance Required: The Consultant shall procure and maintain, for the duration of the Contract, insurance against claims for injuries to persons or damage to property, which may arise from or in connection with the performance of the Services hereunder by the Consultant, its employees, subconsultants, and other agents, and:

(i) Commercial General Liability:

(a) $1,000,000 combined single limit per occurrence for bodily injury, and property damage and $1,000,000 per occurrence for personal injury. The general aggregate shall be $2,000,000.

(b) The Village of Barrington, and its elected and appointed officers, officials, employees, agents and volunteers, are to be named and covered as additional insureds as respects: liability arising out of the Consultant's Services, including activities performed by or on behalf of the Consultant; products and completed operations of the Consultant; premises owned, leased or used by the Consultant, or automobiles owned, leased, hired or borrowed by the Consultant. The coverage shall contain no special limitations on the scope of protection afforded to the

Village of Barrington, and its elected and appointed officers, officials, employees, agents and/or volunteers.

(c) The Consultant's insurance coverage shall be primary and non-contributory as respects the Village of Barrington, and its elected and appointed officers, officials, employees, agents and volunteers. Any insurance or self-insurance maintained by the Village of Barrington, and/or on behalf of its elected and appointed officers, officials, employees, agents and/or volunteers shall be excess of Consultant's insurance and shall not contribute with it.

(d) Any failure to comply with reporting provisions of any applicable insurance policies shall not affect coverage provided to the Village of Barrington, and its elected and appointed officers, officials, employees, agents and/or its volunteers.

(e) If any commercial general liability insurance is being provided under an excess or umbrella liability policy that does not "follow form", then the Consultant shall be required to name the "Village of Barrington, and its elected and appointed officers, officials, employees, agents and volunteers" as additional insureds.

(f) All general liability coverages shall be provided on an occurrence policy form. Claims-made general liability policies will not be accepted.

(g) The Consultant and all subconsultants hereby agree to waive any limitation as to the amount of contribution recoverable against them by the Village of Barrington, and/or by its officers, officials, employees, agents and/or its volunteers. This specifically includes any limitation imposed by any state statute, regulation, or case law including any Workers' Compensation Act provision that applies a limitation to the amount recoverable in contribution such as Kotecki v. Cyclops Welding.

(ii) ISO Business Auto Liability coverage Symbol 01: $1,000,000 combined single limit per occurrence for bodily injury, and property damage and $1,000,000 per occurrence for personal injury.

(iii) Workers' Compensation Insurance: Such coverage as required by the Workers' Compensation Act of the State of Illinois with coverage of statutory limits and Employers' Liability Insurance with limits of $1,000,000 per accident. The insurer shall agree to waive all rights of subrogation against the "Village of Barrington, its elected and appointed officers, officials, employees, agents and volunteers" for losses arising from the Services provided by the Consultant for the Village.

(iv) Professional Liability:

(a) Professional liability insurance with limits not less than $1,000,000 each claim with respect to negligent acts, errors and omissions in connection with professional services to be provided under the contract, with a deductible not-to-exceed $50,000 without prior written approval.

(b) If the policy is written on a claims-made form, the retroactive date must be equal to or preceding the effective date of the contract. In the event the policy is cancelled, non-renewed or switched to an occurrence form, the Consultant shall be required to purchase supplemental extending reporting period coverage for a period of not less than three (3) years.

(v) Umbrella Policy: If the general aggregate limit for Commercial General Liability coverage provided is less than $2,000,000, pursuant to Section 11(B)(i) above, then a $1,000,000 Umbrella Policy shall also be provided which policy shall follow all required coverages as set forth above, other than Worker's Compensation and Professional Liability coverages.

C. Deductibles and Self-Insured Retentions: Any deductibles or self-insured retentions must be declared to and approved by the Village of Barrington.

D. All Coverages:

(i) No Waiver. Under no circumstances shall the Village, or its officers, officials, employees, agents or volunteers be deemed to have waived any of the insurance requirements of this Contract by any act or omission, including, but not limited to:

(a) Allowing work and/or performance of the Services by Consultant or any subconsultant to start before receipt of Certificates of Insurance and Additional Insured Endorsements.

(b) Failure to examine, or to demand correction of any deficiency, of any Certificate of Insurance and Additional Insured Endorsement received.

(ii) Each insurance policy required shall have the Village of Barrington, expressly endorsed onto the policy as a Cancellation Notice Recipient. Should any of the policies be cancelled before the expiration date thereof, notice will be delivered in accordance with the policy provisions.

(iii) When requested by the Village Manager, or his designee, Consultant shall promptly provide the respective original insurance policies for review and approval by the Village Manager, or his designee.

E. Acceptability of Insurers: Insurance is to be placed with insurers with a Best's rating of no less than A-, VII and approved to do business in the State of Illinois.

F. Verification of Coverage: Consultant shall furnish the Village of Barrington, with certificates of insurance naming the "Village of Barrington, its elected and appointed officers, officials, employees, agents and volunteers", as additional insureds (except on Professional Liability), 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 are to be received and approved by the Village Manager, or his designee, before any work and/or performance of the Services commences. The following additional insured endorsements may be utilized (or their substantial equivalent): ISO Additional Insured Endorsements CG 20 10 04 13 or CG 20 26 04 13, and CG 20 37 04 13 – Completed Operations, where required. In the event a claim is filed, the Village reserves the right to request full certified copies of the insurance policies and endorsements.

G. Subconsultants: Consultant shall include all subconsultants as insureds under its policies or shall furnish separate certificates and endorsements for each subconsultant. All coverages for subconsultants shall be subject to all of the requirements stated herein.

H. Assumption of Liability: Consultant assumes liability for all injury to or death of any person or persons including employees of the Consultant, any subconsultant, any supplier or any other person and assumes liability for all damage to property sustained by any person or persons occasioned by or in any way arising out of any work performed and/or the Services provided by the Consultant pursuant to this Contract.

I. Village May Rely on Its Membership in a Self-Insured Risk Pool: Notwithstanding any other provision in any contract document, the undersigned herein agree that the Village, at its own option, may satisfy its obligation to purchase any insurance required of the Village through its membership in a self-insured risk pool. The rights of the Village as a member of a governmental self-insurance pool are intended to and shall constitute full satisfaction for any of the insurance required of Consultant to be maintained by the Village.

J. Insurance Certifications: In addition to providing Certificates of Insurance as required by the Contract Documents, the Consultant shall submit to the Village a signed certification with each Request for Payment, stating that all the insurance required of the Consultant remains in force. Failure to submit such a certification shall be grounds to withhold payment in full or in part.

K. Insurance Requirements Cannot Be Waived by Village: Under no circumstances shall the Village be deemed to have waived any of the insurance requirements of the related Contract by any act or omission, including, but not limited to: (1) allowing the Services to commence by the Consultant or any subconsultant of any tier before receipt of Certificates of Insurance; (2) failing to review any

Certificates of Insurance received; (3) failing to advise the Consultant or any subconsultant of any tier that any Certificate of Insurance fails to contain all the required insurance provisions, or is otherwise deficient in any manner; or (4) issuing any payment without receipt of a Sworn Statement from the Consultant and all subconsultants of any tier stating that all the required insurance is in force. The Consultant agrees that the obligation to provide the insurance required by this Agreement or any of the contract documents is solely its responsibility and that this is a requirement which cannot be waived by any conduct, action, inaction or omission by the Village. Consultant shall also protect the Village by specifically incorporating this Paragraph into every subcontract entered into relative to the Services contemplated herein and also requiring that every subconsultant incorporate this Paragraph into every sub-subcontract it enters into relative to the Services contemplated herein.

L. Liability of Consultant and Subconsultant is Not Limited by Purchase of Insurance: Nothing contained in the insurance requirements of this Agreement or any Contract Documents is to be construed as limiting the liability of the Consultant or the liability of any subconsultant of any tier, or either of their respective insurance carriers. The Village does not, in any way, represent that the coverages or limits of insurance specified is sufficient or adequate to protect the Village, the Consultant, or any subconsultant's interest or liabilities, but are merely required minimums. The obligation of the Consultant and every subconsultant of any tier to purchase insurance shall not, in any way, limit their obligations to the Village in the event that the Village should suffer an injury or loss in excess of the amount recoverable through insurance, or any loss or portion of the loss which is not covered by either the insurance of the Consultant or any subconsultant's insurance.

M. Notice of Bodily Injury or Property Damage: The Consultant shall notify the Village, in writing, of any actual or possible claim for personal injury or property damage relating to the Services, or of any occurrence which might give rise to such claim, promptly upon obtaining first knowledge of same.

N. Updated Proof Required: The Consultant agrees that at any time upon the demand of the Village, updated proof of such insurance coverage will be submitted to the Village. There shall be no additional charge to the Village for said insurance.

O. Higher and More Expansive Standard Applicable: To the extent other insurance requirements of the Contract Documents contradict this Paragraph 11, the more expansive and higher standard, in terms of type and amount of coverage, shall govern.

12. Indemnity:

A. To the fullest extent permitted by law, the Consultant hereby agrees to defend, indemnify and hold harmless the Village, its elected and appointed officers, officials, employees and agents against all injuries, deaths, loss, damages, claims, any claims or amount recovered by reason of any infringement of any patent, trademark or copyright, suits, liabilities, judgments, costs and expenses, which may in anywise accrue against the Village, its elected and appointed officers, officials, employees, and agents arising in whole or in part or in consequence of the performance of the Services by the Consultant, its employees, or subconsultants, or which may in anywise result therefrom, except that arising out of the sole legal cause of the Village, its elected and appointed officials, employees or agents, the Consultant shall, at its own expense, appear, defend and pay all charges of attorneys and all costs and other expenses arising therefrom or incurred in connection therewith, and, if any judgment shall be rendered against the Village, its elected and appointed officers, officials, employees or agents, in any such action, the Consultant shall, at its own expense, satisfy and discharge the same.

B. Consultant expressly understands and agrees that any performance bond or insurance policies required by this Contract, or otherwise provided by the Consultant, shall in no way limit the responsibility to indemnify, keep and save harmless and defend the Village, its elected and appointed officials, employees or agents as herein provided.

C. Consultant further agrees that to the extent that money is due the Consultant by virtue of this Contract as shall be considered necessary in the judgment of the Village, such funds may be retained by the Village to protect itself against said loss until such claims, suits, or judgments shall have been settled or discharged and/or evidence to that effect shall have been furnished to the satisfaction of the Village.

D. In the event that the Village is not immune from liability under any applicable law, and only in such event, the Village hereby agrees to indemnify and hold harmless the Consultant, its officers, directors, employees and subconsultants (collectively, Consultant) against all damages, liabilities or costs, including reasonable attorney's fees and defense costs, to the extent caused by the Village's negligent acts in connection with the Project and the acts of the Village, and/or any of its officers, trustees and/or employees.

E. Neither the Village nor the Consultant shall be obligated to indemnify the other party in any manner whatsoever for the other party's own negligence, or for the willful misconduct of their respective officers, trustees, employees and/or agents.

F. The provisions of this Paragraph 12 shall survive any termination of the Contract.

13. Village Confidential Information:

A. Consultant warrants that it shall not disclose, use, sell, rent, trade, or otherwise provide Village Confidential Information to any person, firm, or entity for any purpose outside of the specific purposes of the Contract Documents, except as necessary to comply with applicable State or Federal laws.
B. The provisions of this Paragraph 13 shall survive any termination of the Contract.

14. No Conflicts of Interest: The Consultant warrants that it has no conflict of interest and has not employed or retained any company or person, other than a bona fide employee working solely for the Consultant, to solicit or secure this Contract, and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the Consultant, any fee, commission, percentage, brokerage fee, gift(s), or any other consideration, contingent upon or resulting from the award or the making of this Contract.

15. Compliance with Laws: Consultant shall comply with all applicable federal, state, and local laws, ordinances, rules and regulations, and any and all orders and decrees of any court, administrative body or tribunal applicable to the performance of the Contract. Included within the scope of the laws, ordinances, rules and regulations referred to in this paragraph, but in no way to operate as a limitation, are: Occupational Safety & Health Act ("OSHA"); Illinois Department of Labor ("IDOL"), Department of Transportation, and all forms of traffic regulations; public utility, Intrastate and Interstate Commerce Commission regulations; Workers' Compensation Laws, the Social Security Act of the Federal Government and any of its titles, the Illinois Human Rights Act, and EEOC statutory provisions and rules and regulations. Evidence of specific regulatory compliance will be provided by the Consultant if requested by the Village.

16. Equal Employment Opportunity: The Consultant shall be an "equal opportunity employer" as defined in the United States Code Annotated. The Consultant shall be required to comply with the President's Executive Order No. 11246, as amended, and the requirements for Bidders and Consultants under this order are explained in 41 CFR 60-4. The Consultant shall fully comply with all applicable provisions of the Illinois Human Rights Act.

17. Certifications: By the execution of this Agreement, the Consultant certifies that: (1) the Consultant is not delinquent in the payment of any tax administered by the Illinois Department of Revenue as required by 65 ILCS 5/11-42.1-1; (2) the Consultant has a written sexual harassment policy as required by and shall otherwise comply in all respects with the Illinois Human Rights Act (775 ILCS 5/2-105(A)(4)); (3) the Consultant will provide a drug-free workplace as required by and shall otherwise comply with the Illinois Drug-Free Workplace Act (30 ILCS 580/1, et seq.); (4) the Consultant has in place a written policy as

required by and that it does and shall otherwise comply with the Illinois Substance Abuse Prevention on Public Works Projects Act (820 ILCS 265/1, et seq.); and (5) the Consultant is not and/or was not barred from bidding on this Contract pursuant to Section 33E-3 or 33E-4 of the Illinois Criminal Code (720 ILCS 5/33E-3 and 5/33E-4).

18. Project Documentation: Upon execution of this Agreement relative to the Project, notwithstanding anything contained in any other Contract Documents to the contrary, the Consultant and its subconsultants agree to and shall release to the Village any and all right, title, and interest in and to any and all Project Documentation depicting, documenting, or recording the Services, and/or the Work, and/or the Project which is the subject of the Contract Documents, prepared or created by the Consultant and/or its subconsultants, including but not limited to any and all drawings, plans, specifications, photos, reports, videos, and/or other recordings on any electronic media (sometimes collectively referred to as "Project Documentation"), and any and all of such Project Documentation shall become the property of the Village. The Consultant and its subconsultants further warrant to the Village that they have the legal right to convey said Project Documentation to the Village. The Services contemplated by the Contract Documents shall not be considered complete until and unless legible and complete physical and electronic copies of all such Project Documentation have been delivered to the Village. The Village may reuse Project Documentation without the prior written authorization of the Consultant, but the Village agrees to waive any claim against the Consultant arising from any unauthorized reuse or modification of the Project Documentation.

19. Illinois Freedom of Information Act (5 ILCS 140/1, et seq.): As a unit of local government, the Village is subject to the Illinois Freedom of Information Act (FOIA), as amended. Therefore, after award of the Contract, responses, documents, and materials submitted to the Village by the Consultant will be made available for public inspection in accordance with the FOIA, unless otherwise determined by a Village FOIA officer after award of a contract. The Village and the Consultant and any subconsultant(s) shall maintain their respective records relating to the performance of the Contract Documents in compliance with the requirements of the Local Records Act (50 ILCS 205/1, et seq.) until written approval for the disposal of such records is obtained from the Local Records Commission. All books and records required to be maintained by the Village and the Consultant and any subconsultant(s) shall be available for review by the other. The Consultant and its subconsultant(s) and the Village shall cooperate with each other (a) with all requests for records made pursuant to the Freedom of Information Act (5 ILCS 140/1, et seq.), (b) with any request for records made pursuant to any audit, and (c) by providing full access to and copying of all relevant books and records of Consultant within a time period which allows the Village to timely comply with the time limits imposed by the Freedom of Information Act (5 ILCS 140/1, et seq.). Consultant must inform the Village, in writing, of the exact materials in the Consultant's proposal which it claims are exempt from disclosure pursuant to the FOIA as proprietary or as may otherwise be protected. The obligations imposed by this section shall survive final payment and the termination of the other obligations imposed by the Contract.

20. Consultant is an Independent Contractor: It is mutually understood and agreed that the Consultant shall have full control of the ways and means of performing the Professional Services referred to above and/or which is the subject of this Agreement and the related Contract and that the Consultant or his/its employees, representatives or subconsultants are in no sense employees of the Village, it being specifically agreed that in respect to the Village, the Consultant and any party employed by the Consultant bears the relationship to the Village of an independent contractor.

21. Arbitration Deleted from Contract Documents; No Attorneys' Fees: Any provision in the Contract and any other contract documents referring to the submission of claims or disputes to arbitration shall herein be deleted. Notwithstanding anything contained in the Contract and any other contract documents to the contrary, it is the intent of the parties that arbitration is a remedy which shall not exist under the Contract and any other contract documents, and no party shall be entitled to recover attorneys' fees or court costs in any action to enforce or interpret this Agreement and the related Contract and contract documents.

22. Duration: This Agreement and the related Contract Documents shall be in effect from the date of the Contract until the completion of the Services, but the obligations of the Consultant under Paragraphs 12 and 13 shall continue after such termination.

23. Advertisement: The Consultant is specifically denied the right to use in any form or medium the name of the Village for public advertising unless express permission is granted by the Village.

24. Amendments: No agreement or understanding to modify this Agreement or the related Contract Documents shall be binding upon the Village unless in writing and signed by the Village's authorized agent. All specifications, drawings, and data submitted to the Consultant with this Agreement or the related Contract Documents are hereby incorporated and made part thereof.

25. Termination; Remedies: Notwithstanding any other provision hereof, the Village may terminate the Agreement in the event of a default by the Consultant or without cause at any time upon 15 days prior written notice to the Consultant. In the event that the Agreement is so terminated and the Consultant is not in default or breach of this Agreement, the Consultant shall be paid for Services actually performed and reimbursable expenses actually incurred, if any, prior to termination, not exceeding the value of the Services completed which shall be determined on the basis of the rates set forth in the Consultant's Proposal (Exhibit B).

26. Supersede: The terms, conditions and specifications set forth in this Agreement shall supersede, govern, and prevail over any inconsistent terms, conditions, and/or specifications on any other Contract Documents.

27. Severability: In the event any section, subsection, paragraph, sentence, clause, phrase or provision of this instrument or part thereof shall be deemed unlawful, invalid, unenforceable or ineffective by any court of competent jurisdiction, such decision shall not affect the validity, enforceability or effectiveness of the remaining portions of this instrument.

28. Facsimile or Digital Signatures: Facsimile or digital signatures shall be sufficient for purposes of executing, negotiating, and finalizing this Contract, and this Contract shall be deemed delivered as if containing original signatures if such delivery is made by emailing a PDF of a scanned copy of the original, hand-signed document, and/or by use of a qualified, established electronic security procedure mutually agreed upon by the Parties.

29. Counterparts: This Agreement may be executed in one or more counterparts, which counterparts when affixed together, shall constitute one and the same original document.

30. No Third-Party Beneficiaries: The parties do not intend to confer any benefit hereunder on any person, firm or corporation other than the parties hereto.

31. Entire Agreement: The Contract Documents (including all Exhibits attached thereto which by reference are made a part of the Agreement) and all other written agreements signed by all of the parties hereto which by their express terms are a part of the Contract Documents, are the final expression of, and contain the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior understandings with respect thereto.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized officer in quadruplicate counterparts, each of which shall be considered as an original.

CONSULTANT:
SB FRIEDMAN DEVELOPMENT ADVISORS, LLC

By: _____
GEOFF DICKINSON

VILLAGE OF BARRINGTON

By: _____
Karen Darch, its President

(12/23)

Its Authorized Agent

ATTEST: _____
Tony Ciganek, Village Clerk