

# **INDEPENDENT CONTRACTOR CONSULTING SERVICES AGREEMENT**

This Independent Contractor Consulting Services Agreement (this "Agreement") is made by and between Ronald Mentzer (the "Consultant"), and the City of Crest Hill, an Illinois municipal corporation formed under and by virtue of the constitution and laws of the State of Illinois (the "City"). The City and Consultant may be individually identified as a "Party" or collectively as the "Parties" where appropriate. The City and the Consultant hereby agree as follows:

## **SECTION 1 SCOPE OF AGREEMENT**

**Section 1.01. Consulting Services.** The City hereby engages the Consultant as an independent contractor to provide consulting services to City as from time to time requested by City, and upon the terms and conditions set forth in this agreement. Consultant commits to provide the community development, economic development, organizational efficiency and staff development consulting services covered by this agreement (collectively the "Services") The attached **Exhibit A** identifies the scope and general description of the Services to be provided by the Consultant and the base compensation to be paid to Consultant by the City for those Services. The City and Consultant acknowledge that the Consultant will be subject to the City's day-to-day supervision and control, but only to the extent necessary to allow for the smooth and uninterrupted conduct of City business. Unless otherwise authorized by the Mayor and City Council, City and Consultant acknowledge that the Parties expect the Consultant to provide up to 24 hours of consulting services each week at the direction of the City Administrator, and/or the Community/Economic Development Director or the Mayor in the absence of a City Administrator. The Parties agree the majority of the Consultant's hours of service will be provided at the City's premises.

**Section 1.02. Independent Contractor.** The Consultant remains an independent contractor, and not employee, agent, partner of, or joint venturer with, the City. Further, the Parties agree that the Consultant shall not have any authority to bind the City to any commitment, contract, agreement, or other obligation without the City Council's express written consent and formal approval.

## **SECTION 2**

### **SERVICES AND OBLIGATIONS OF THE CONSULTANT AND CITY**

**Section 2.01. Payment of Compensation.** The Consultant will be paid the Base Compensation (Fees) and will be provided a 1099 Form by the City for all such fees paid. Consultant will be responsible for payment of all wages, other compensation, and related payroll taxes in accordance with federal and Illinois law. The City acknowledges that the

Consultant may engage a financial entity to maintain his financing and record keeping services, which may include the payment of wages and related payroll taxes in accordance with this Section 2.01. The City agrees to cooperate with any such financial entity to ensure timely payment of (i) wages and related payroll taxes pursuant to this Section 2.01, and (ii) fees pursuant to Section 3.

**Section 2.02. Workers' Compensation.** To the extent required by applicable law, the Consultant will maintain in effect workers' compensation coverage covering himself and acknowledges that he will not be covered on the City's workers' compensation insurance.

**Section 2.03. Maintenance and Retention of Payroll and Benefit Records.** The Consultant shall maintain complete records of all wages and benefits paid and shall retain control of such records and make them available for inspection as required by applicable federal, state, or local laws.

**Section 2.04. Direction and Control.** The Parties agree and acknowledge that the City has the right of direction and control over the Consultant, but only to the extent necessary to allow for the smooth and uninterrupted conduct of City business. The Parties further agree and acknowledge that the City Administrator, and/or the Community/Economic Development Director or the Mayor in the absence of a City Administrator, shall have the authority to exercise the City's right of direction and control.

**Section 2.05. Obligations of the City.** Pursuant to this Agreement the City covenants, agrees and acknowledges:

- a) The City will provide the Consultant with a suitable workplace that complies with US Occupational Safety and Health Administration ("OSHA") statutes and regulations, and all other health and safety laws, regulations, ordinances, directives, and rules applicable to the City and the City's workplace; and
- b) The City retains the right to exert sufficient direction and control over the Consultant as is necessary to conduct the City's business and operations, without which the City would be unable to conduct its business operation(s), or else to comply with any applicable licensure, regulatory, or statutory requirements; and
- c) The City will confer with the Consultant regarding any concern or complaint involving his performance of the Services or conduct under this Agreement; and
- d) The City will not pay any wages, salaries, or other forms of direct or indirect compensation, including any employee benefits whatsoever, to Consultant.
- e) If Consultant is injured while performing the Services to the City, the City and the Consultant will follow all federal and/or state mandated procedures and practices regarding injury claims and reporting.

**Section 2.06. Obligations of the Consultant.** Pursuant to this Agreement the Consultant, agrees and acknowledges:

- a) The Consultant will comply with any federal, state, and local law, and any associated regulations, applicable to Contractor, including but not limited to: the federal Patient Protection and Affordable Care Act ("ACA"); Title VII of the Civil Rights Act of 1964, as amended ("Title VII"); the Americans With Disabilities Act of 1990 ( "ADA"); the Age Discrimination in Employment Act ( "ADEA"); the Equal Pay Act of 1963; the Civil Rights Acts of 1866 and 1871 (42 U.S.C. 1981); the Family and Medical Leave Act of 1993 ("ALA"); the Fair Labor Standards Act of 1938 ("FLSA"); the National Labor Relations Act; the Employee Retirement Income Security Act of 1974; the Illinois State Constitution; the Illinois Human Rights Act; and any other federal, state, or local law, statute, ordinance, order, regulation, policy or decision regulating wages and the payment of wages, prohibiting employment discrimination, or otherwise establishing or relating to rights of employees; and

## **SECTION 3**

### **FEES PAYABLE TO CONSULTANT**

**Section 3.01. Fees.** The City's sole financial obligation to Consultant for the services provided under this Agreement is as follows: The City will pay the Consultant an amount equal to the base compensation for hours actually worked by Consultant, as fully identified on Exhibit A or as may be amended, in writing, and executed by the Parties.

**Section 3.02. Payment Method.** Every two (2) weeks during the term of this Agreement, the Consultant will invoice the City in writing for the fees owed under this Agreement. Each invoice shall be accompanied by a certified statement of the hours worked by Consultant in the applicable two-week period and a description of the work performed during those hours. Within thirty (30) days following receipt of such invoice, along with all required supporting documentation, the City must dispute in writing or pay, in whole or in part, all invoiced amounts by check, wire transfer, or electronic funds transfer to the Consultant tractor as designated on the invoice. Partial payment of any invoiced amount shall not constitute a waiver of the City's right to dispute any other invoiced amount. Late payments will be subject to all applicable interest payments or service charges provided by state or local law. In addition to charging interest or service charges provided by applicable law, the Consultant may, upon written notice to the City, suspend performance of services under this Agreement while any undisputed amount due is past due and remains unpaid.

## **SECTION 4 INSURANCE**

**Section 4.01. City General and Professional Liability Insurance.** The City must maintain in full force and effect at all times during the term of this Agreement a Comprehensive (or Commercial) General Liability insurance policy or policies (the "City Policy"), with

minimum coverage in the amount of \$1,000,000 per occurrence, \$2,000,000 aggregate per annum. In the alternative, as applicable, the City may maintain in full force and effect at all times during the term of this Agreement a self-insured retention ("SIR") which provides the same minimum coverage limits as set forth above. In the event such SIR exists and applies to this Agreement, the City agrees to fully discuss the SR's parameters with the Contractor and its relationship to the City Policy. At a minimum, the City Policy must insure against bodily injury and property damage liability caused by on-premises business operations, completed operations, and/or products or professional services and must provide non-owned automobile coverage.

**Section 4.02. The Consultant's General and Professional Liability Insurance.** The Consultant must maintain in full force and effect at all times during the term of this Agreement a Comprehensive (or Commercial) General Liability and Professional Liability (if applicable) insurance policy or policies (the "Contractor Policies"), with minimum coverage in the amount of \$1,000,000 per occurrence, \$2,000,000 aggregate per annum. At a minimum, the Consultant Policies must insure against bodily injury and property damage liability caused by the Consultant's business operations; the Consultant's completed operations; the Consultant's products or professional services; and/or any actions or omissions of the Consultant. The Consultant will add the City as an additional insured on all Consultant Policies.

**Section 4.03. Certificate of Insurance.** Upon request of either Party, the other Party will promptly issue to the first Party one or more Certificates of Insurance, verifying that Party's compliance with the provisions of Sections 4.01 and 4.02, as applicable, as well as with any other insurance requirements contained within this Agreement.

**Section 4.04. Automobile Liability Insurance.** If the Consultant drives any City or personal vehicle for any reason in connection with the provision of the Services to the City, the City must maintain in effect automobile liability insurance insuring the Consultant and the City against liability for any bodily injury, death, and property damage as may be occasioned thereby.

## **SECTION 5**

### **DURATION AND TERMINATION OF AGREEMENT**

**Section 5.01. Term and Effective Date.** The Effective Date of this Agreement is the date that this Agreement is last signed by the City on the signature page (the "Effective Date") and the period during which the Consultant provides the Services to the City is defined as the ("Term"). The Term commences on the Effective Date and will continue for a period of one hundred and eighty (180) days, or until it is terminated in accordance with the remaining provisions of this Section 5. For the purposes of this Agreement, the date on which this Agreement expires and/or is terminated is the ("Termination Date"). By written agreement of the Mayor and City Administrator, with the advice and consent of the City Council, the term of this agreement may be extended for a period of up to ninety (90) days from and after the expiration of the initial term.

**Section 5.02. Termination of Agreement for Failure to Pay Fees.** If the City fails to timely pay the fees required under this Agreement, the Consultant may give the City notice of his intent to terminate this Agreement for such failure and if such failure is remedied within ten (10) days, the notice will be of no further effect. If such failure is not remedied within the ten (10) day period, the Consultant has the right to terminate the Agreement upon expiration of such remedy period.

**Section 5.03. Termination of Agreement for Material Breach.** If either Party materially breaches this Agreement, the non-breaching Party must give the breaching Party written notice of its intent to terminate this Agreement for such breach and if such breach is remedied within ten (10) days, the notice will be of no further effect. If such breach is not remedied within the ten (10) day period, the non-breaching Party has the right to immediately terminate the Agreement upon expiration of such remedy period.

**Section 5.04. Termination by the City for Cause.** The City may terminate this Agreement at any time for cause. Any termination for cause shall be immediate and shall take effect upon the date that the City gives notice to the Consultant. For the purposes of this Section 5.04, "cause" shall include, but not be limited to:

- a) Consultant's personal dishonesty; and
- b) Consultant's willful misconduct; and
- c) Consultant's intentional failure to perform stated duties; and
- d) The Consultant's willful violation of any law, rule, regulation (other than traffic violations or similar offenses), final cease and desist order, or any other lawful order of any court or body of competent jurisdiction; and
- e) The Consultant's conviction of a crime or act involving moral turpitude, or any final judgment rendered against any Workplace Employee based upon actions which involve moral turpitude.

**Section 5.05. Termination Without Cause by Written Notice.** Either party may terminate this Agreement without cause upon thirty (30) days written notice. The City shall be responsible for the payment of all fees incurred and owed at the time of the written termination notice and shall have the option of having Consultant continue to provide services and complete outstanding projects during the thirty-day period. The City shall be responsible for payment of all fees incurred during the 30-day period following the termination notice and properly invoiced in accordance with this Agreement.

## SECTION 6

### DISCLOSURE AND INDEMNIFICATION PROVISIONS

**Section 6.01. Indemnification by the Consultant.** To the extent permitted by law, the Consultant agrees to indemnify, defend, and hold the City, its elected and appointed officials, employees, agents, successors, and assigns (the "City Parties") harmless from and against all claims, liabilities, damages, attorney's fees, costs, and expenses ("Losses") (a) arising out of the Consultant's breach of its obligations under this Agreement, (b) related to the actions or conduct of the Consultant or the Services provided during the term of this Agreement, (c) arising from any act or omission on the part of the Consultant, including but not limited to any tax liability that the City may incur as of the result of Consultant's failure to pay taxes as required in Section 2.01.

**Section 6.02. Survival of Indemnification Provisions.** The provisions of Section 6 survive and be enforceable beyond and after the expiration or termination of this Agreement.

## SECTION 7

### MISCELLANEOUS PROVISIONS

**Section 7.01. Amendments.** This Agreement may be amended at any time and from time to time, but any amendment must be in writing and signed by all the Parties to this Agreement.

**Section 7.02. Binding Effect.** This Agreement inures to the benefit of and binds the Parties and their respective heirs, successors, representatives, and assigns. Neither Party may assign its rights or delegate its duties under this Agreement without the express written consent of the other Party.

**Section 7.03. Counterpart Execution.** This Agreement may be executed and delivered in any number of counterparts, each of which will be an original, but all of

which together constitutes one and the same instrument. This Agreement may be executed and delivered via facsimile or electronic mail.

**Section 7.04. Entire Agreement.** This Agreement constitutes the entire agreement between the Parties regarding the Consultant and the Services to be rendered by Consultant to the City and contains all the terms, conditions, covenants, stipulations, understandings, and provisions agreed upon by the Parties. This Agreement supersedes and takes precedence over all proposals, memorandum agreements, tentative agreements, and oral agreements between the Parties, made prior to and including the Effective Date of this Agreement not specifically identified and incorporated in writing into this Agreement. No agent or representative of either Party has the authority to make, and the Parties will not be bound by or liable for, any statement,

representation, promise, or agreement not specifically set forth in this Agreement which relate to the services to be rendered under this Agreement.

**Section 7.05. Further Assurances.** The Parties will execute and deliver any and all additional papers, documents, and other assurances and do any and all acts and things reasonably necessary in connection with the performance of their obligations under this Agreement.

**Section 7.06. Number and Gender.** Whenever the context herein so requires, the masculine, feminine, or neuter gender and the singular and plural number include the other.

**Section 7.07. Section Headings.** Section and other headings contained in this Agreement are for reference purposes only and do not affect in any way the meaning or interpretation of this Agreement.

**Section 7.08. Severability.** If any part or condition of this Agreement is held to be void, invalid or inoperative, such shall not affect any other provision hereof, which will continue to be effective as though such void, invalid or inoperative part, clause or condition had not been made.

**Section 7.09. Waiver of Provisions.** The failure by one Party to require performance by the other Party shall not be deemed to be a waiver of any such breach, nor of any subsequent breach by the other Party of any provision of this Agreement. Such waiver shall not affect the validity of this Agreement, nor prejudice either Party's rights in connection with any subsequent action. Any provision of this Agreement may be waived if, but only if, such waiver is in a writing signed by the Party against whom the waiver is to be effective.

**Section 7.10. Confidentiality.** Each Party will protect the confidentiality of the other's records and information and must not disclose confidential information without the prior written consent of the other Party. This Section shall not be interpreted or construed to limit the application of (i) the Illinois Freedom of Information Act (5 LCS 140/1, et seq.) ("FOIA") to this Agreement or any documents and records related hereto or (ii) Section 8.11, *infra*. The provisions of this Section 8.10 are intended and shall be deemed to survive the expiration or termination of this Agreement.

**Section 7.11. FOIA.** In executing this Agreement, the Consultant acknowledges and understands that the City is a municipal corporation that is a "Public Body" subject to the requirements of FOIA. The Consultant further acknowledges, understands, and agrees that FOIA may operate to require the City to disclose this Agreement and/or any other records or documents related hereto to a third party making a request under FOIA. If the City receives any FOIA request for any record related to this Agreement, the City shall notify the Consultant of said request as soon as practicable. Upon receipt of such notice, the Consultant may either agree to the City's disclosure of the requested records or may demand in writing that the City redact or withhold said records pursuant to this Agreement, provided that any such demand must have a reasonable basis in existing law (including but not limited to the exemptions set forth in FOIA); the City reserves the right to disclose records over the Consultant's objection

if it determines, in its sole discretion, that there is no reasonable basis in law to withhold or redact said records. In the event that the Consultant agrees to the City's disclosure of records, or if the Consultant fails to respond to the City in a reasonably timely manner prior to the City's deadline to respond to the FOIA request, the Consultant hereby releases, waives, and holds harmless the City from any and all injuries, claims of damage, or other liabilities as may be incurred by the Consultant as a result of such disclosure. In the event that the Consultant demands, in writing, that the City redact or withhold any record(s), the Consultant hereby agrees to defend, indemnify, and hold harmless the City from and against any and all claims, damages, liabilities, injunctions, fees, fines, penalties, or any other costs, however described, as may be incurred by or assessed against the City because of the redactions or withholding of records demanded by the Consultant. Further, in the event that the City redacts or withholds any record after a written demand made by the Consultant pursuant to this Section and such redaction or withholding results in any appeal, review, claim, or other litigation before any judicial or administrative body of competent jurisdiction (specifically including, but not limited to, the Public Access Counsellor in the Office of the Illinois Attorney General), the Consultant agrees to reimburse the City for all costs and expenses, including but not limited to any and all reasonable attorneys fees, incurred by City in defense of such appeal, review, claim, or other litigation. The provisions of this Section 7.11 are intended and shall be deemed to survive the expiration or termination of this Agreement.

**Section 7.12. Governing Law; Choice of Forum.** This Agreement will be governed by and construed in accordance with the laws of the State of Illinois, without the application of any of that state's conflicts of laws principles. By executing this Agreement, the Parties hereby submit to the sole and exclusive personal and subject matter jurisdiction of the Circuit Court for the Twelfth Judicial Circuit, Will County, Illinois. To the extent permitted by law, the Parties hereby agree (i) that any claim or dispute between the Parties arising out of this Agreement shall be brought only in said court, (ii) to waive any and all lights that they have or may hereinafter acquire to file any motion to dismiss for want of jurisdiction in said court, (iii) to waive any and all rights that they have or may hereinafter acquire to seek removal of any such claim to any federal court, and (iv) to waive any and all rights that they have or may hereinafter acquire to file any motion seeking to change the venue of any such claim or dispute to any other court, including but not to by filing any motion forum non conveniens. The provisions of this Section 7.12 are intended and shall be deemed to survive the expiration or termination of this Agreement.

**Section 7.13. Attorneys' Fees.** The Parties agree that, in the event of litigation under or in relation to this Agreement, each Party shall bear its own costs and shall further be liable for only those attorneys' fees and costs incurred by that Party. The provisions of this Section 7.13 are intended and shall be deemed to survive the expiration or termination of this Agreement.

**Section 7.14. Force Majeure.** The Consultant will not be responsible for failure or delay in performance of the services to the City if the failure or delay is caused by labor disputes and strikes, fire, riot, terrorism, acts of nature or of God, or any other causes beyond the control of the Consultant.



**Section 7.15. Non-Disparagement.** The Consultant agrees that he will not at any time whether during or after the Term of this Agreement, make, publish, or communicate to any person or entity or in any public forum any defamatory or disparaging remarks, comments, or statements concerning the City, its elected and appointed officers, or any of its employees, agents, or representatives. This Section 7.15 does not in any way restrict or impede the Contractor from exercising any protected rights to the extent that such rights cannot be waived by agreement or from complying with any applicable law or regulation or a valid order of a court of competent jurisdiction or an authorized government agency, provided that such compliance does not exceed that required by the law, regulation, or order. The Consultant shall promptly provide written notice of any such order to the City. The provisions of this Section 7.15 are intended and shall be deemed to survive the expiration or termination of this Agreement.

## SECTION 8 NOTICES

**Section 8.01. Notices.** All Notices given under this Agreement must be written and may be given by personal delivery; first class U.S. Mail; registered and certified mail, return receipt requested; overnight delivery service; or electronic mail. Notices will be deemed received at the earlier of actual receipt or three (3) calendar days from the mailing date. Notices must be sent to the Parties at their respective addresses shown below. A Party may change its address for notice by giving written notice to the other Party.

If to the Consultant:	Ronald Mentzer 27w740 Greenview Avenue, Warrenville, IL 60555 Email: <a href="mailto:rmentzer@scptnrs.com">rmentzer@scptnrs.com</a>
If to the City:	Mayor Raymond Soliman City of Crest Hill 20600 City Center Boulevard, Crest Hill, IL 60403

IN WITNESS WHEREOF, the Parties executed this Agreement on the Effective Date, which is the date this Agreement is last signed by the City.

Ronald Mentzer

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

The City of Crest Hill

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

By: Mayor RAYMOND SOLIMAN

## EXHIBIT A

CONSULTANT: Ronald Mentzer

TERM OF ENGAGEMENT: From (TBD), 2025 to (TBD), 2025

SCOPE OF SERVICES: The Consultant will provide municipal community development, economic development, private development review/processing, tax increment financing, organizational and operational efficiency, and other management consulting services focused on:

1. Providing continuity in City of Crest Hill Community Development Department operations during Patrick Ainsworth's transition as the City's new, full-time, Community and Economic Development Director
2. Providing project review and City approval process support on significant ongoing development projects and proposals in order to enable the new Community and Economic Development Director to focus meaningful time on City economic development efforts. Significant ongoing development projects and proposals include, but are not limited to: the Lockport Township Fire Protection District's proposed new training and equipment maintenance facility, the redevelopment of significant portions of the Stateville Penitentiary Property, the development of the balance of the Heidner Property at the northwest corner of Weber Road and Division Street, the development of the Lucky Brothers gas station, convenience store, and Dunkin Donuts store at the southwest corner of Broadway Street and Caton Farm Road, MIF's development of a 150,000+ sq. ft. industrial/warehouse/office building at the south end of Advantage Drive, and the development of the A & D storage facility at the southwest corner of Borio Drive and Renwick Road.
3. Providing project review, City approval process coordination, and property sale support for the pending sale and redevelopment of the former City of Crest Hill City Hall site to QuikTrip.
4. Transferring institutional knowledge regarding City regulations, review and approval processes, staffing and operational challenges and opportunities to new full-time Community and Economic Development Director.
5. Assisting in the review and potential creation of a new East Weber Road/ Caton Farm Road TIF District and private sector TIF assistance and other economic development incentive requests.
6. Assisting in the preparation and filing of the required annual Tax Increment Financing District Fiscal Reports with the State of Illinois and the City's conduct of the required Tax Increment Financing Joint Review Board meetings for the two existing TIF Districts the City currently has in place.

BASE COMPENSATION: \$115.00/hour for hours actually worked. Maximum number of hours per week shall be 24 unless otherwise authorized by the Mayor and City Council.

RONALD MENTZER

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Date: \_\_\_\_\_

THE CITY OF CREST HILL

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By: RAYMOND SOLIMAN

Its: Mayor

Date: \_\_\_\_\_