

RESOLUTION NO. R-2014-07

**A RESOLUTION AUTHORIZING EXECUTION OF
AN INDEPENDENT CONTRACTOR SERVICES AGREEMENT
FOR ACTING VILLAGE MANAGER SERVICES
(KENNETH LOPEZ)**

WHEREAS, the President and Board of Trustees of the Village of Maywood desire to retain the services of Kenneth Lopez ("Contractor"), working as an independent contractor, on a temporary basis, as the full-time Acting Village Manager of the Village of Maywood, as further detailed in an "Independent Contractor Services Agreement for Acting Village Manager Services (Kenneth Lopez)," a copy of which is attached hereto and made a part hereof as Exhibit "A"; and

WHEREAS, the Village desires to receive the benefit of the professional expertise, knowledge and administrative skills associated with the Contractor and to retain the Contractor's services to act, on a temporary basis, as the Acting Village Manager of the Village of Maywood and for the Contractor to perform all of the customary duties of Village Manager in accordance with the provisions of Title III, Chapter 30, Section 30.04 of the Maywood Village Code and this Agreement; and

WHEREAS, the Contractor desires to work on a temporary basis as the full-time Acting Village Manager of the Village of Maywood and agrees to perform all of the customary duties of Village Manager in accordance with the provisions of Title III, Chapter 30, Section 30.04 of the Maywood Village Code and this Agreement; and

WHEREAS, the Village and the Contractor desire to enter into this Agreement for their mutual benefit; and

WHEREAS, the Village of Maywood, a home rule Illinois municipal corporation, has the authority to enter into the attached Independent Contractor Services Agreement pursuant to its home rule powers as provided by Article VII, Section 6 of the Illinois Constitution of 1970, and finds that entering into such an 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 MAYWOOD, ILLINOIS, PURSUANT TO ITS HOME RULE POWERS AS PROVIDED BY ARTICLE VII, SECTION 6 OF THE ILLINOIS CONSTITUTION OF 1970, AS FOLLOWS:

SECTION 1: The President and Board of Trustees of the Village Maywood approve and authorize the execution of the Independent Contractor Services Agreement for Acting Village Manager Services (Kenneth Lopez), a copy of which is attached hereto as Exhibit "A". Further, the Board of Trustees authorize and direct the

Village President and Village Clerk, or their designees, to execute the Independent Contractor Services Agreement, and to execute and deliver all other instruments and documents that are necessary to fulfill the Village's obligations under the Agreement.

ADOPTED this 1st day of April, 2014, pursuant to a roll call vote as follows:

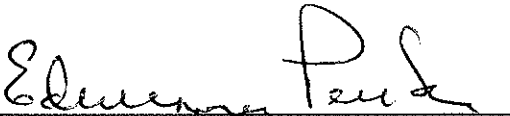
AYES: Mayor E. Perkins, Trustee(s) A. Jaycox, A. Dorris, M. Rogers, M. Lightford and R. Rivers

NAYS: None

ABSTAIN: Trustee C. Ealey-Cross

ABSENT: None

APPROVED this 1st day of April, 2014, by the Village President of the Village of Maywood, and attested by the Village Clerk, on the same day.

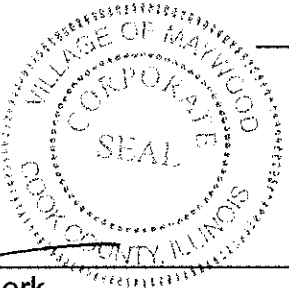


Village President

ATTEST:



Village Clerk



Date: April 1, 2014

Exhibit "A"

**INDEPENDENT CONTRACTOR SERVICES AGREEMENT
FOR ACTING VILLAGE MANAGER SERVICES
(KENNETH LOPEZ)**

(attached)

**INDEPENDENT CONTRACTOR SERVICES AGREEMENT FOR
ACTING VILLAGE MANAGER SERVICES
(KENNETH LOPEZ)**

This Independent Contractor Services Agreement (hereinafter known as the "Agreement") is entered into as of _____, 2014, by and between the Village of Maywood (hereinafter known as the "Village" or "Corporate Authorities") and Kenneth Lopez, an individual (known herein as the "Contractor").

RECITALS:

WHEREAS, the Village desires to retain the services of the Contractor, on a temporary basis, as the full-time Acting Village Manager of the Village of Maywood, as further detailed in this Agreement; and

WHEREAS, the Village desires to receive the benefit of the professional expertise, knowledge and administrative skills associated with the Contractor and to retain the Contractor's services to act as the Acting Village Manager of the Village of Maywood and for the Contractor to perform all of the customary duties of Village Manager in accordance with the provisions of Title III, Chapter 30, Section 30.04 of the Maywood Village Code and this Agreement; and

WHEREAS, the Contractor desires to work, on a temporary basis, as the full-time Acting Village Manager of the Village of Maywood and agrees to perform all of the customary duties of Village Manager in accordance with the provisions of Title III, Chapter 30, Section 30.04 of the Maywood Village Code and this Agreement; and

WHEREAS, the Village and the Contractor desire to enter into this Agreement for their mutual benefit.

NOW, THEREFORE, in consideration of the agreed upon dollars paid in hand after the execution of this Agreement, the respective covenants and agreements of the parties set forth below, and other valuable consideration, the parties agree as follows:

1. Term and Effective Date. This Agreement shall become effective immediately upon approval and execution by both parties and shall be effective as of the date that the last signatory signs the Agreement. If any of the signatories to this Agreement shall fail to execute this Agreement, it shall be null and void in its entirety. This Agreement shall be in effect until the first date of employment for the full-time and permanent Village Manager, subject to termination by either party as set forth below in Section 7. The Contractor understands that the Village is currently involved in the hiring process to select a full-time, permanent Village Manager. The Contractor's first day of employment with the Village is Wednesday, April 2, 2014. The Contractor's last day of employment shall be the business day immediately prior to the initial start date of the full-time, permanent Village Manager, unless this Agreement is terminated at an earlier date by either party.

2. Services and Duties. The Contractor shall serve as the Village's full-time Acting Village Manager. Subject to the terms and conditions of this Agreement, the Contractor shall perform all

of the duties of the Village Manager in accordance with the provisions of Title III, Chapter 30, Section 30.04 of the Maywood Village Code, including but not limited to working in the capacity of the Village Manager during regular business hours Monday through Friday, attending or, as appropriate on limited occasions, having his designee attending, all Village Board meetings (and related executive session meetings), committee, commission and other board meetings (and related executive session meetings), and performing any additional tasks or services within the scope of the duties of the Village Manager as requested by the Village President and Board of Trustees, subject to the provisions contained in this Agreement. The Contractor shall avoid all personal acts that might injure the reputation of the Village of Maywood.

3. Independent Contractor. Both the Village and the Contractor agree that the Contractor will act as an independent contractor in the performance of his duties under this Agreement. The Contractor shall not be considered as having an employee status, nor shall the Village withhold any sums for the payment of income taxes or FICA taxes, nor shall the Contractor be entitled to participate in any employee plans, arrangements or distributions by the Village pertaining to or in connection with any pension or retirement plans, nor shall the Contractor be eligible for any other benefits available for the regular employees of the Village, such as health insurance, vacation time, compensatory time or sick leave. The Contractor agrees that he shall be responsible for the payment of his share of any such required Federal, Illinois or local taxes, and that it is his sole and exclusive responsibility to file all necessary tax returns (federal, state, county and local) and to pay all income tax, social security, and any and all other taxes due as an independent contractor in his profession. The Contractor further understands that the Contractor may be liable for self-employment (Social Security) tax, to be paid by the Contractor according to law. As an independent contractor, the Contractor 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 hurt performing any work or services under this Agreement. The Contractor 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.*).

The Contractor agrees and understands that his relationship with the Village is an "at-will" relationship and that the Corporate Authorities may terminate him and this Agreement at any time and for any reason. The Contractor agrees and understands that he does not have the right to receive any type of progressive discipline prior to the termination of this Agreement and he waives any and all claims to a contract right of employment having been created by this Agreement or any Village Code provision. Nothing in this Agreement shall prevent, limit or otherwise interfere with the rights of the Village to terminate the employment of the Contractor at any time, subject only to the provisions set forth herein. Nothing in this Agreement shall prevent, limit or otherwise interfere with the right of the Contractor to terminate his employment with the Village by resigning at any time from his position as Acting Village Manager, subject only to the provisions herein.

The Contractor shall be free to dispose of such portion of the Contractor's entire time, energy and skill during hours when the Contractor is not obligated to devote time and services to his duties hereunder, in such manner as the Contractor sees fit and to such persons, firms or corporations as the Contractor deems advisable.

4. Compensation. In consideration of the Contractor performing all of the duties required of the Village Manager, as set forth in Title III, Chapter 30, Section 30.04 of the Maywood

Village Code, the Village shall pay the Contractor **Two Thousand Thirty-Eight Dollars (\$2,038.00) per week** for services provided to the Village for the duration of this Agreement. The Village shall also provide reimbursement for actual, documented, Village-related business expenses incurred by the Contractor in the course of this Agreement. The Contractor agrees that he will be solely responsible for all federal, state and local taxes and withholdings related to the compensation received under this Agreement. The Contractor also agrees and understands that he will not receive nor be entitled to receive any employee benefits (e.g. vacation days, sick days, compensatory time, life insurance, health insurance, etc.) provided to employees of the Village. In the event that the Contractor needs to take any time off work during normal business hours, the Contractor shall inform the Mayor and Board of Trustees and Deputy Manager, and such time will not be compensated. The Village's Deputy Manager shall assume the Acting Manager duties during any absence.

5. Confidential Information. The Contractor agrees that any information received by the Contractor as part of the Contractor's work obligations under this Agreement, which concerns the personal, financial or other affairs of the Village or any of its residents, taxpayers, businesses or potential businesses, property owners and developers, will be treated by the Contractor in full confidence and will not be revealed to any other persons, firms or organizations with the exception of material that must be produced pursuant to the provisions of the Illinois Freedom of Information Act.

6. Exclusivity and Duty of Loyalty. During the term of this Agreement, the Contractor shall not be self-employed in any kind of profit or non-profit business venture, and shall not be employed by or work for compensation for any other person, corporation, partnership or municipality of any kind without prior approval by the Corporate Authorities of the Village, which approval may be withheld. For example, if the Contractor desires to teach a class or seminar or engage in other work or consulting activities of any kind, he shall obtain prior approval of the Corporate Authorities of the Village. This Section shall not be interpreted to preclude the Contractor from speaking or writing activities on a limited basis during the Contractor's personal time off.

7. Termination of Agreement. Either party may terminate this Agreement at any time for any reason upon written notice to the other party, provided that the Contractor shall be compensated for all services provided up to the termination date. If the Contractor receives an offer to work in a full-time capacity from another business, corporation or local government, he will endeavor to provide the Village with at least ten (10) business days advance notice before his last work day for the Village.

Termination of this Agreement "for cause," however, shall be grounds for immediate termination. "Cause" means: (i) willful malfeasance or willful misconduct by the Contractor in connection with his employment; (ii) the Contractor's gross negligence in performing any of his duties under this Agreement; (iii) the Contractor being found guilty of any felony, or the Contractor being found guilty of any misdemeanor involving dishonesty, a drug-related offense or moral turpitude, or the Contractor being convicted of any other misdemeanor (i.e., with a judgment of conviction being entered rather than an order of supervision being entered), but excluding any misdemeanor or petty offense which relates to a traffic violation (other than a misdemeanor DUI while operating a Village-owned vehicle) or infraction; (iv) the Contractor's willful breach of any written policy applicable to all employees adopted by the Village; or (v) material breach by the Contractor of any of the terms of this Agreement.

8. Village Property; Return. During the term of this Agreement, the Contractor shall be provided with certain Village-owned property and access and use of other property. The Contractor shall use his own vehicle for transportation purposes to and from the Village Hall and off-site Village events. Upon termination of this Agreement, the Contractor shall immediately deliver to the Village all building, equipment and vehicle keys, Village-related records, correspondence, letters, e-mails, computer disks or stored information, supplies, files, computer, cellular phone, other business-related equipment, and all other material and records of any kind belonging to or relating to the Village that are in the possession or control of the Contractor.

9. Taxes. The Contractor agrees that he shall be responsible for the payment of his share of any such required Federal, Illinois, county or local taxes in regard to all wages and reimbursements and any other payments made by the Village to the Contractor under this Agreement.

10. Indemnification. The Village agrees to defend, indemnify and hold harmless the Contractor from and against any and all claims, actions, suits, damages, costs, expenses and liabilities, including all reasonable fees and expenses of attorneys selected by the Village to defend the Contractor, expert witnesses and consultants, court costs and fines, against him or sought to be imposed upon him and which arise directly or indirectly out of or in connection in any way with his performance of the terms of this Agreement, provided that the Contractor's actions or conduct giving rise to any litigation or dispute was within the scope of the duties of Village Manager, but excepting from the indemnification those claims, actions, suits, damages, costs, expenses and liabilities that arise from any willful or wanton conduct of the Contractor. Said indemnification shall extend beyond termination or expiration of this Agreement for any acts undertaken or committed while the Contractor was working on the Village's business, regardless of whether the notice of filing of a lawsuit for such tort, claim, demand or other legal action occurs during or following the dates that the Contractor was under agreement to the Village.

As a material inducement for the Village to enter into this Agreement, the Contractor agrees to waive and hold harmless the Village, its representatives, officers, mayor, president, trustees, agents, employees and attorneys from and against any and all claims, actions, suits, damages, punitive damages, costs, expenses and liabilities, including the reasonable fees and expenses of their attorneys, expert witnesses and consultants, court costs and fines, asserted against them or sought to be imposed upon them, individually, jointly or severally, and which arise directly or indirectly out of or in connection in any way with the termination of this Agreement, except to the extent that those claims, actions, suits, damages, costs, expenses and liabilities arise solely from the Village's failure to fulfill its obligations under this Agreement.

11. Waiver and Assumption of Liability. As a material inducement for the Village to enter into this Agreement, the Contractor agrees to assume all risk of death, illness and injury relative to performing any work or services under this Agreement. In addition, the Contractor agrees to waive and hold harmless the Village, its representatives, officers, President and Trustees, appointed and elected officials, agents, employees, attorneys and volunteers from and against any and all claims, actions, suits, damages, punitive damages, costs, expenses and liabilities, including the reasonable fees and expenses of their attorneys, expert witnesses and consultants, court costs and fines, asserted against them or sought to be imposed upon them, individually, jointly or severally, and which arise directly or indirectly out of or in connection in any way with this Agreement or any matters of any kind covered by this Agreement, the Contractor's status as an independent contractor, or from the termination of this Agreement by the Village, the performance of the Contractor's duties and services under this Agreement, any

personal injuries of any kind or death or loss of personal property that might occur while performing the Contractor's duties and the Services under this Agreement, or the termination of this Agreement. The Contractor agrees to waive his right to seek punitive damages against the Village.

12. Ownership and Disclosure. All work product, documents, reports, studies, information, data, statistics, forms, designs, disks, plans, procedures, systems and other materials of any kind in any form or format that are produced by or for the Contractor under this Agreement (the "Work Product") shall be public Village records (as defined under the Freedom of Information Act (5 ILCS 140/1 *et seq.*), as amended ("FOIA")), subject to applicable FOIA exemptions, and shall be and remain the property of the Village for the sole and exclusive use of the Village. The Contractor waives and releases his literary ownership and intellectual property rights and claims to all Work Product that he produces under this Agreement. No such materials produced, either in whole or in part, under this Agreement shall be subject to private use, copyright, trademark, service mark, or patent right or intellectual property right of any kind by the Contractor without the express written consent of the Village. The Village shall have unrestricted authority to publish, disclose, distribute and otherwise use any such Work Product produced by the Contractor under this Agreement, either by choice or as required to be disclosed by the FOIA. Subject to any applicable exception of FOIA, the Contractor and the Village acknowledge that this Agreement is a public record, as that term is defined under FOIA, and therefore is subject to inspection and copying by the public if requested pursuant to a FOIA request.

13. Miscellaneous Provisions.

A. Amendment. This Agreement may be amended only with the mutual consent of the parties and all amendments must be in writing.

B. Assignment. This Agreement is a personal contract, and the rights and interest that the Agreement accords to the Village and the Contractor may not be sold, transferred, assigned, pledged, encumbered or hypothecated by him. This Agreement shall be binding upon, and inure to the benefit of, the Contractor, his heirs, executors, administrators, representatives, successors, transferees and assigns, and the Village and its former, current and future elected and appointed officers, officials, trustees, agents, transferees, assigns and successors-in-interest.

C. The "Village." For the purpose of this Agreement, the term "Village" shall mean and include any and all subsidiaries or political subdivisions of the Village of Maywood, including its advisory boards, committees and commissions, intergovernmental agencies, and others which may be in existence from time to time.

D. Notices. All notices, demands or other communications of any kind to be given or delivered under this Agreement shall be in writing and shall be deemed to have been properly given if (a) delivered by hand, (b) delivered by a nationally recognized overnight courier service, (c) sent by certified United States Mail, return receipt requested and postage prepaid, or (d) sent by email transmission followed by a transmission confirmation copy being sent by U.S. Mail on the same day. Such communications shall be sent to the parties at their respective addresses as follows:

Contractor:

Kenneth Lopez
3903 Cedar Creek Drive
Johnsburg, Illinois 60050

Phone: (815) 385-1207
E-mail: blopez@mc.net

Village of Maywood:

Edwenna Perkins, Village President
Village of Maywood
125 South 5th Avenue
Maywood, Illinois 60153

Phone: 708-450-4486
E-mail: eperkins@maywood-il.org

E. Entire Agreement. This Agreement represents the entire agreement between the parties concerning the Contractor's employment with the Village and supersedes all prior negotiations, discussions, understandings and agreements, whether written or oral, between the Contractor and the Village relating to the subject matter of this Agreement. No provision of this Agreement may be amended or waived unless such amendment or waiver is agreed to in writing and signed by the Contractor and the Village.

F. Venue and Applicable Law. The statutes and common law of the State of Illinois shall govern the interpretation, validity, enforcement and performance of the terms of this Agreement. The parties agree that, for the purpose of any litigation or proceeding brought with respect to this Agreement and its enforcement, venue shall be in the Circuit Court of Cook County, Illinois. The Contractor and Village agree to submit to the jurisdiction of such court for the purpose of any such litigation or proceeding.

G. Severability. The invalidity of any portion of this Agreement shall not affect the enforceability of the remaining portions of the document. In the event that any portion or portions contained shall be declared invalid by a court of competent jurisdiction, this Agreement shall be constructed so as to make the portions or portion valid or, if such construction is not legally possible, as if such invalid portion or portions had not been inserted.

H. Admissibility. The parties agree that this Agreement shall be admissible in evidence in any action in which the terms of this Agreement are sought to be enforced.

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HAS INTENTIONALLY BEEN LEFT BLANK.**

SIGNATURE PAGE TO FOLLOW.

IN WITNESS WHEREOF, the Village of Maywood, pursuant to the authority granted by the passage of a Resolution by its President and Board of Trustees, has caused this Agreement to be executed by Maywood's Village President and attested by the Village Clerk, and the Contractor has voluntarily executed the Agreement (and his signature attested), on the dates set forth below:

KENNETH LOPEZ:

By: _____
signature

typed or printed name

Date:

ATTEST:

By: _____
signature

(typed or printed name)

Date: _____

VILLAGE OF MAYWOOD:

By: _____
signature

Edwenna Perkins
Village President

Date:

ATTEST:

By: _____
signature

Viola Mims
Village Clerk

Date: _____

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

CLERK'S CERTIFICATE

I, Viola Mims, Clerk of the Village of Maywood, in the County of Cook and State of Illinois, do hereby certify that the annexed and foregoing is a true and correct copy of that certain Resolution now on file in my Office, entitled:

RESOLUTION NO. R-2014-07

**A RESOLUTION AUTHORIZING EXECUTION OF
AN INDEPENDENT CONTRACTOR SERVICES AGREEMENT
FOR ACTING VILLAGE MANAGER SERVICES
(KENNETH LOPEZ)**

which Resolution was passed by the Board of Trustees of the Village of Maywood at a Regular Village Board Meeting on the 1st day of April, 2014, at which meeting a quorum was present, and approved by the President of the Village of Maywood on the 1st day of April, 2014.

I further certify that the vote on the question of the passage of said Resolution by the Board of Trustees of the Village of Maywood was taken by Ayes and Nays and recorded in the minutes of the Board of Trustees of the Village of Maywood, and that the result of said vote was as follows, to-wit:

AYES: Mayor E. Perkins, Trustee(s) A. Jaycox, A. Dorris, M. Rogers, M. Lightford and R. Rivers.

NAYS: None

ABSTAIN: Trustee C. Ealey-Cross

ABSENT: None

I do further certify that the original Resolution, of which the foregoing is a true copy, is entrusted to my care for safekeeping, and that I am the lawful keeper of the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Village of Maywood, this 2nd day of April, 2014.

[SEAL]





Village Clerk