

PROFESSIONAL FEE AGREEMENT

This Professional Fee Agreement ("Agreement") is made and entered into this 16th day of May, 2017 by and between the Village of Elwood, an Illinois Municipal Corporation ("Village") and BLD-LPC, LLC (NorthPoint), ("Applicant") for the project known as Project Compass :
[insert legal description, if applicable].

WITNESSETH:

WHEREAS, the Applicant intends to secure Village approval of its proposed project; and

WHEREAS, it will, therefore, be necessary for the Village to engage its independent professional staff or consultants to review and comment upon the work of the Applicant and its professionals; and

WHEREAS, the fees for said professional staff in completing their review work for the Village shall be paid by the Applicant.

NOW THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth and contained, the receipt and sufficiency of which is hereby acknowledged, IT IS MUTUALLY COVENANTED AND AGREED by, among and between the respective parties hereto as follows:

SECTION 1. PROFESSIONAL FEES

The Applicant shall pay to the Village any and all professional fees and expenses incurred by the Village in conjunction with the Applicant's project from the date of this Agreement through completion of the project as determined by the Village, i.e. Village's acceptance of all public improvements associated with the project, whichever occurs last. Professional fees and expenses shall include, but not be limited to services provided in legal, planning, engineering, traffic, financial and other disciplines necessitated by the project. Fees shall also include, but are not limited to, all time associated with review, analysis, discussions, meetings, inspections, planning and other work or services performed on behalf of the Village in conjunction with the project.

SECTION 2. SECURITY

Concurrent with the execution of this Agreement, the Applicant shall post with the Village as security for payment the sum of Two-Hundred Thousand dollars (\$200,000.00) (the "Deposit").

The Village is expressly authorized to apply this security in payment of such fees, costs and expenses in the event the Applicant fails to make payments as described in Section 3 of this Agreement. The Applicant acknowledges and agrees to continuously maintain this amount of deposit with the Village until completion of the project.

Applicant acknowledges and agrees that some projects, which are not directly related to land development or which are unique by nature in complexity or simplicity, may require the posting of security in such other reasonable amounts as the Village may require in its sole discretion. In the event that any amount of the security posted herein remains on deposit at the completion of the project, the Village shall cause such unnecessary security to be returned to the Applicant within sixty (60) days of completion of the project and payment of all expense to the professional staff or consultants.

SECTION 3. PAYMENT

The Village shall provide the Applicant with timely invoices itemizing the fees and the work performed. The Village shall withdraw the Professional Fees from the Deposit amount as fees are incurred. When the amount in the Deposit reaches One-Hundred Thousand dollars (\$100,000.00) the Applicant shall replenish the account to the previous amount. The amount on Deposit shall not act as a limitation on Applicant's obligation to pay fees. If the Applicant becomes in arrears, interest shall accrue on the unpaid balance at rate of 18 percent (18%) per annum. The Village may also, following written notification to the Applicant, direct that all professional staff and Village Officials cease work on the project until the invoice is paid in full. If the Applicant has progressed to the stage where building or occupancy permits are being issued, such permits may be withheld until all fees are paid to the satisfaction of the Village.

SECTION 4. COOPERATION

The Applicant shall provide reasonable cooperation to the Village, its officials and independent professional staff with respect to the review of its project and Applicant's performance thereunder.

SECTION 5. REPRESENTATION OF VILLAGE ONLY

The Applicant also acknowledges that the independent professional staff or consultants solely represent the Village and its interest and do not represent the Applicant.

SECTION 6. CONFLICT

If the terms and provisions of this Agreement conflict with any ordinance of the Village or agreement between the parties, the terms and provisions of the Professional Fee Agreement shall supersede, set and control any other terms or provisions.

SECTION 7. ATTORNEY FEES

In the event any suit or action is brought to enforce or otherwise affects this Agreement or any of its provisions, the Applicant, shall pay the Village's attorney and expert witness fees, costs and expenses associated with such litigation.

SECTION 8. SEVERABILITY

The invalidity of any paragraph or subparagraph of this Agreement shall not impair the validity of any other paragraph or subparagraph. If any provision of this Agreement is determined to be unenforceable, such provision shall be determined severable and the Agreement may be enforced with such provision severed or as modified by such court.

SECTION 9. ENTIRE AGREEMENT

This Agreement embodies the entire agreement and understanding between the parties and there are no other agreements, representations, warranties or understandings, oral or written between the parties with respect to the subject matter of this Agreement. No alteration, modification, amendment or change of this Agreement shall be valid unless by written instrument.

SECTION 10. COUNTERPARTS

This Agreement may be signed in counterparts by facsimile or otherwise as commercially reasonable to signify the parties' acceptance of the Agreement.

IN WITNESS THEREOF, the Village of Elwood, has caused this Agreement to be duly executed by the Acting Village President, attested to by the Village Clerk and its corporate seal affixed thereto, all in accordance with and pursuant to due authority vested in them by the Board of Trustees of said Village, and Applicant has heard and affixed his/her hand and seal, all as of the day and year first above written.

Applicant

VILLAGE OF ELWOOD,
An Illinois Municipal Corporation


BY: Patrick Robinson, VP


BY: Todd C. Matichak, Village President

ATTEST:

ATTEST:

BY: _____


BY: Julie Friebele, Village Clerk