

RESOLUTION NO. R-2023-16

**A RESOLUTION APPROVING AND AUTHORIZING
A PROFESSIONAL SERVICES AGREEMENT
WITH MILBERG COLEMAN BRYSON PHILLIPS GROSSMAN PLLC
(D/B/A HERA – PROPERTY REGISTRY) FOR PROPERTY REGISTRATION
AND ENFORCEMENT SERVICES PURSUANT TO MAYWOOD VILLAGE CODE, SECTION 150.031
(REGISTRATION OF FORECLOSING MORTGAGED PROPERTY AND VACANT PROPERTY)**

WHEREAS, the President and Board of Trustees of the Village of Maywood, Illinois (the “Village”) and Milberg Coleman Bryson Phillips Grossman PLLC (d/b/a “HERA – Property Registry”) desire to enter into an agreement under which HERA – Property Registry will provide a vacant property and foreclosure property registration program and related enforcement services in accordance with the terms set forth in the attached “PROFESSIONAL SERVICES AGREEMENT WITH MILBERG COLEMAN BRYSON PHILLIPS GROSSMAN PLLC (D/B/A HERA – PROPERTY REGISTRY)” (the “Agreement”) and pursuant to Maywood Village Code, Section 150.031 (Registration of Foreclosing Mortgaged Property and Vacant Property). A copy of the Agreement is attached hereto as Exhibit “A” and made a part hereof; and

WHEREAS, the Village of Maywood, a home rule Illinois municipal corporation, has the authority to approve and enter into the attached Agreement (Exhibit “A”) pursuant to its home rule powers and contracting authority provided by Article VII (Local Government), Section 6 (Powers of Home Rule Units) and Section 10 (Intergovernmental Cooperation) of the Illinois Constitution of 1970, as well as the Illinois Intergovernmental Cooperation Act (5 ILCS 220/) and the applicable provisions of the Illinois Municipal Code (65 ILCS 5/), and finds that entering into the Agreement is in the best interests of the Village, its residents, property owners, businesses and the public.

NOW, THEREFORE, BE IT RESOLVED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF MAYWOOD, COOK COUNTY, ILLINOIS, AS FOLLOWS:

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

SECTION 2: Approval and Execution of Agreement. The President and Board of Trustees of the Village Maywood authorize the approval and execution of the final version of the attached Agreement, which may contain certain non-substantive and non-financial modifications that are approved by the Village Attorney.

SECTION 3: Approval of Financial Obligations and Execution of Other Documents. The President and Board of Trustees of the Village authorize and direct that the Village President, the Village Clerk, the Village Manager and the Village Attorney, or their designees, transmit executed originals or certified copies of all documents, including the Agreement, to all parties that are entitled to receive such documents, and further authorize the payment of all expenses and costs that are necessary to fulfill the Village’s obligations under the Agreement.

SECTION 4: Delivery of Signed Documents. The President and Board of Trustees of the Village direct the Village Clerk’s Office to forward a certified copy of this Resolution and a fully executed copy of the Agreement to Hera – Property Registry for record retention purposes.

SECTION 5: Effective Date. This Resolution shall be in full force and effect from and after its adoption and approval as provided by law.

ADOPTED this 14th day of March, 2023, pursuant to a roll call vote as follows:

AYES: Mayor Booker, Trustee(s) S. Reyes-Plummer, M. Jones, M. Lightford, A. Peppers and I. Brandon

NAYS: None

ABSENT: Trustee A. Sanchez

APPROVED this 14th day of March, 2023, by the Village President of the Village of Maywood, and attested by the Village Clerk on the same day.

Nathaniel George Booker, Village President

ATTEST:

Gwaine Dianne Williams Village Clerk

Exhibit "A"

**PROFESSIONAL SERVICES AGREEMENT WITH
MILBERG COLEMAN BRYSON PHILLIPS GROSSMAN PLLC (D/B/A HERA – PROPERTY REGISTRY)
FOR PROPERTY REGISTRATION AND ENFORCEMENT SERVICES**

(attached)

PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT ("Agreement") is made and entered into this ___ day of _____, 2023 by and between **MILBERG COLEMAN BRYSON PHILLIPS GROSSMAN PLLC**, a Tennessee Professional Limited Liability Corporation with an address at 800 South Gay Street, Suite 1100, Knoxville, Tennessee 37929 ("Milberg") and the **VILLAGE OF MAYWOOD**, with an address at 40 Madison Street, Maywood, Illinois 60253 ("Village"). (Milberg and the Village are at times referred to herein individually as a "Party" and collectively as the "Parties".)

WITNESSETH:

I. SCOPE OF REPRESENTATION

1. The Village retains Milberg to represent Maywood in providing property registration and enforcement services (the "Services") pursuant to the Village's vacant and foreclosure property ordinance, Maywood Village Code, Title XV (Land Usage), Chapter 150 (Building Regulations), Section 150.031 (Registration of Foreclosing Mortgaged Property and Vacant Property) (the "Ordinance").

2. As is further set forth herein, the Village hereby authorizes Milberg to represent the Village's interests in: (a) providing a property registration service pursuant to the Ordinance; and (b) taking enforcement actions for violations of the Ordinance, at the written direction of the Village.

II. DUTIES OF MILBERG

Ordinance Registration Services

1. Milberg, at its cost, shall provide and maintain an online vacant and foreclosure property registration service website for the Village pursuant to the Ordinance, including the electronic payment of the registration fee and any late fees. The website will direct Registrants to a hyperlink, www._____.com (to be mutually agreed upon by the Village and Milberg). The website will automatically allow lenders and/or responsible parties to comply with the Village's property registration codes. In the event the Ordinance requires payment of late fees as part of the registration requirements, Milberg shall add to the website the requirement of payment of said late fees and shall assist the Village with the collection of all applicable late fees. Upon termination of this Agreement, Milberg shall immediately take steps to de-activate the website.

2. Milberg shall monitor mortgage defaults and other property registration triggers under the Ordinance and shall send notice to the mortgagee or other responsible party of a duty to register the property.

3. Collections made by Milberg will be deposited immediately into a separate trust account maintained in a federally insured bank for the Village.

4. All registration fees collected by Milberg shall be remitted to the Village, less Milberg's collection costs, by the fifteenth (15th) day of each month, for all monies collected for the previous monthly period, net of expenses and costs which will be calculated in accordance with the terms of this Agreement.

Ordinance Enforcement Services

5. Milberg shall represent Maywood in bringing individual enforcement actions for the recovery of outstanding vacant and foreclosure property registration fees owed to Maywood over the relevant statute of limitations period, together with associated fines and penalties.

6. Milberg shall represent the Village on an ongoing basis in bringing enforcement action against mortgagees or other responsible parties for the failure to properly register a property pursuant to the Ordinance.

7. Ordinance enforcement activities and recovery and collection actions for outstanding vacant and foreclosure property registration fees shall be in compliance with federal, State, and local laws or regulations, and will be conducted in a courteous and businesslike manner, always considering the image and reputation of the Village.

8. Accounts placed by the Village with Milberg for collection may be withdrawn by the Village through reasonable written request after sixty (60) calendar days of date assigned.

9. Milberg shall not use or disclose or in any manner or make available to any third party any account information provided to it by the Village or obtained by it in providing the Services hereunder, subject to disclosure in accordance with a judicial subpoena, court order or other applicable law.

10. Milberg shall take all steps necessary to reduce burden on the Village, by preparing all necessary municipal lien documents, witness statements/affidavits, invoice statements, or any other necessary documentation needed to enforce municipal lien/debt that may result from Milberg's performance of this Agreement.

III. PAYMENT FOR MILBERG'S SERVICES.

1. In consideration of the cost of registration services rendered by Milberg, the Village hereby agrees to pay Milberg an amount equal to One Hundred Twenty-Five and No/100 Dollars (\$125.00) of the total registration fee for each property registration fee collected by Milberg. Should there be a fee required for public/official record data acquisition integral to the performance of the duties required under this Agreement, those charges shall be deducted from the remittance for the actual costs of said charges or subscriptions. If said charges or subscription fees are for the entire county, the fee shall be divided equally between all communities partnered with Milberg within the county at that time. If there is a change in the number of communities partnered with Milberg in the county during the contract period, the county public record access fee will be adjusted accordingly to maintain an even cost-sharing by all communities within the county.

2. In consideration of the enforcement services actually rendered by Milberg, for registration fees that are more than thirty (30) calendar days past due and where collection efforts are taken by Milberg, in addition to the registration fee set forth in Paragraph III.1. above, the Village agrees to pay Milberg one-third (33.333%) of all penalties and other sums recovered on behalf of the Village. It is agreed and understood that this contractual arrangement is premised upon a contingent fee basis, and, if no such outstanding registration fees, penalties or other sums are recovered, the Village will not be indebted to Milberg for any sum whatsoever for Milberg's fees, costs and/or expenses.

3. Litigation costs and expenses actually incurred by Milberg shall be recovered by Milberg in full (100%) prior to the calculation of the contingency fee amount discussed in the foregoing section.

4. The Village understands and agrees that Milberg shall split its fee with Break Point Law, LLC, a Florida Limited Liability Company located at 1900 South Harbor City Blvd., Suite

211, Melbourne, Florida 32901 ("Break Point Law"). Break Point Law shall aid Milberg in this contractual arrangement and will bear joint responsibility for the representation of the Village. This division of fees between Milberg and Break Point Law shall not impact the amount of total fees to be paid by the Village but will simply reflect a split of the fees after it has been paid to Milberg.

5. When Milberg collects registration fees, Milberg shall remit the collected registration fees to the Village in accordance with this Agreement.

6. The Village acknowledges that the basis of computing Milberg's compensation has been fully explained to the Village and that Milberg's compensation is based upon, among other factors, the time and labor involved, novelty or difficulty of questions presented, the results obtained, time limitations imposed by this representation, and the reputation, experience and ability of Milberg in performing this type of service.

7. The Village acknowledges that Milberg has made no promises to the Village as to the outcome of the case, except that Milberg has promised to render its best professional skill.

IV. INSURANCE

During the term of this Agreement, Milberg and Break Point Law shall maintain their own respective insurance coverages, as required below, written on the comprehensive form and as "occurrence" policies and issued in dollar amounts of coverage not less than:

1. Professional liability (malpractice) coverage: \$1,000,000.
2. Comprehensive General Liability: \$1,000,000 per occurrence and \$2,000,000 in the aggregate.

V. INDEMNIFICATION: DEFENSE: COOPERATION

In addition to and not in limitation of the insurance requirements, Milberg agrees that:

1. Milberg and Break Point Law, jointly and severally, shall indemnify, defend and hold harmless the Village, its officers, employees, appointed and elected officials, and agents (the "Indemnified Parties") from and against any and all liabilities arising directly out of or in connection with malpractice or willful acts or negligent acts under this Agreement by Milberg and Break Point Law, their respective employees, owners and representatives, or any of their agents; provided, however, that Milberg and Break Point Law shall not be responsible for that portion, if any, of a loss that is caused by the negligence of the Village.

2. Milberg and Break Point Law shall, upon the Village's demand and at the Village's direction, promptly and diligently defend, at Milberg's and Break Point Law's own risk and expense, any and all suits, actions or proceedings which may be brought or instituted against one or more Indemnified Parties for which Milberg and/or Break Point Law are responsible under this Section and, further to Milberg's and Break Point Law's indemnification obligations, Milberg and Break Point Law shall pay and satisfy any judgment, decree, loss or settlement in connection therewith.

3. Milberg and Break Point Law shall cause their respective employees, owners and representatives, or any of their agents, to cooperate with the Village in connection with the investigation, defense or prosecution of any action, suit or proceeding in connection with this Agreement, including the acts or omissions of Milberg and Break Point Law in connection with this Agreement.

4. The provisions of this Section shall survive the termination of this Agreement.

VI. SUPPORT AND MAINTENANCE

Milberg shall provide all support and maintenance required in connection with the Services.

VII. VILLAGE DATA

The Village acknowledges registering properties governed by the Ordinance prior to this Agreement. On a date agreed upon by the Parties and prior to the Effective Date of this Agreement, the Village will provide Milberg a digital file in a format agreeable to the Parties containing all of the information of all properties registered by the Village. All registrations and fees received by the Village during the period from the data delivery date to the Effective Date of this Agreement will be submitted to Milberg and considered registrations by Milberg under the terms of this Agreement. If the Village is unable to provide the agreed upon digital file, then the Village will provide Milberg all property registration information, including but not limited to registration forms, for manual entry into Milberg's database. If manual entry of this information is required, the Village agrees to compensate Milberg \$5.00 per property.

VIII. SURVIVAL

The expiration or termination of this Agreement will not extinguish the rights of either Party that accrue prior to expiration, termination or any obligations that extend beyond termination or expiration, either by their inherent nature or by their express terms.

IX. AUDIT AND RECORDS

Milberg and Break Point Law shall maintain records pertaining to this Agreement for a period of seven (7) years from final payment. Such records shall be subject to audit by the Village on reasonable advanced, written notice. The audit shall be conducted at the premises of the Village on business days only and during normal working hours.

X. GOVERNING LAW

The validity, construction and performance of this Agreement shall be governed by the laws of the State of Illinois, without giving effect to the principles of conflicts of laws.

XI. EXPENSES

During the term of this Agreement, Milberg shall be responsible for all expenses and costs associated with the Services. Litigation expenses and expenses shall be reimbursable on a contingency basis, as set forth above.

XII. TERMINATION

Milberg and the Village each expressly reserve the right to withdraw from this Agreement at any time upon sixty (60) calendar days written notification to the other Party, subject to any applicable ethical rules. Milberg shall continue to be entitled to its legal fees even after termination on any and all sums recovered through its efforts. Milberg shall also be entitled to recover from the Village any advanced litigation expenses prior to receipt of written notification of termination of this Agreement. Milberg shall cooperate fully with the Village and replacement counsel, if any,

to return all files and information, as more fully set forth herein, which obligation shall survive termination of this Agreement.

XIII. ALL LEGAL PROVISIONS DEEMED INCLUDED: SEVERABILITY

1. Every provision required by Law to be inserted into or referenced by this Agreement is intended to be a part of this Agreement. If any such provision is not inserted or referenced or is not inserted or referenced in correct form, then: (i) such provision shall be deemed inserted into or referenced by this Agreement for purposes of interpretation; and (ii) upon the application of either Party, this Agreement shall be formally amended to comply strictly with the Law, without prejudice to the rights of either Party.

2. In the event that any provision of this Agreement shall be held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

3. Each Party has cooperated in the negotiation and preparation of this Agreement. Therefore, in the event that construction of this Agreement occurs, it shall not be construed against either Party as drafter.

XIV. SECTION AND OTHER HEADINGS

The Section and other headings contained in this Agreement are for reference purposes only and shall not affect the meaning or interpretation of this Agreement.

XV. ENTIRE AGREEMENT; EFFECTIVE DATE

This Agreement represents the full and entire understanding and agreement between the Parties with regard to the subject matter hereof and supersedes all prior agreements (whether written or oral) of the Parties relating to the subject matter of this Agreement. The "Effective Date" of this Agreement shall be the date the last signatory signs the Signature Page of this Agreement, which date shall be inserted above in the first Paragraph at Page 1.

XVI. THE VILLAGE OF MAYWOOD'S SIGNATURE HEREON SHALL CONSTITUTE MILBERG'S AUTHORITY TO PROCEED WITH THIS REPRESENTATION

The Village of Maywood acknowledges that all of the terms of this Agreement have been fully explained to the Village of Maywood, and that the Village of Maywood fully understands all of the provisions herein.

SIGNATURE PAGE TO FOLLOW

SIGNATURE PAGE

DATED THIS ____ day of _____, 2023.

VILLAGE OF MAYWOOD

By: _____
Name: _____
Title: _____

DATED THIS ____ day of _____, 2023.

**MILBERG COLEMAN BRYSON PHILLIPS
GROSSMAN PLLC**

By: _____
Name: Marc Grossman
Title: Partner

DATED THIS ____ day of _____, 2023.

BREAK POINT LAW, LLC

By: _____
Name: _____
Title: Partner

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

CLERK'S CERTIFICATE

I, Gwaine Dianne Williams, Clerk of the Village of Maywood, in the County of Cook and State of Illinois, certify that the attached is a true and correct copy of that certain Resolution now on file in my Office, entitled:

RESOLUTION NO. R-2023-16

**A RESOLUTION APPROVING AND AUTHORIZING
A PROFESSIONAL SERVICES AGREEMENT
WITH MILBERG COLEMAN BRYSON PHILLIPS GROSSMAN PLLC
(D/B/A HERA – PROPERTY REGISTRY) FOR PROPERTY REGISTRATION
AND ENFORCEMENT SERVICES PURSUANT TO MAYWOOD VILLAGE CODE, SECTION 150.031
(REGISTRATION OF FORECLOSING MORTGAGED PROPERTY AND VACANT PROPERTY)**

which Resolution was passed by a roll call vote of the Board of Trustees of the Village of Maywood at a Special Village Board Meeting on the 14th day of March, 2023, at which meeting a quorum was present, and approved by the President of the Village of Maywood on the 14th day of March, 2023.

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 Booker, Trustee(s) S. Reyes-Plummer, M. Jones, M. Lightford, A. Peppers and I. Brandon

NAYS: None

ABSENT: Trustee A. Sanchez

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 15th day of March, 2023.

Gwaine Dianne Williams, Village Clerk

[SEAL]