

VILLAGE OF DEERFIELD

RESOLUTION NO. 2022- R-22-48

APPROVING AN AGREEMENT WITH KANE, MCKENNA AND ASSOCIATES TO
PROVIDE PHASE 2 TIF CONSULTANT SERVICES FOR
THE CREATION OF A DOWNTOWN TIF DISTRICT

WHEREAS, the Village of Deerfield (“*Village*”) is a home rule municipality in accordance with Article VII, Section 6 of the Constitution of the State of Illinois of 1970; and

WHEREAS, a portion of the Village’s downtown business district and Village Center (“*Target Area*”) contains many parcels that are presently underutilized, suffer from excessive vacancies, and face several economic development impediments, such as obsolescence, deterioration, inadequate utilities, and lack of community planning; and

WHEREAS, the Village does not anticipate that significant portions of the Target Area will be redeveloped and restored without the implementation by the Village of a comprehensive plan for the economic redevelopment of the Redevelopment Area; and

WHEREAS, the Village has explored various methods by which sufficient private investment can be attracted to the Target Area, so that the Target Area can be redeveloped for the long-term growth and benefit of the Village and its residents; and

WHEREAS, one means by which the Village could attract the private investment necessary for the redevelopment of the Target Area is the use of tax increment financing (“*TIF*”) and the establishment of a redevelopment project area (a “*TIF District*”) as authorized under 65 ILCS 5/11-74.4-1 *et seq.* (the “*TIF Act*”); and

WHEREAS, the Village has previously retained Kane, McKenna and Associates (“*Consultant*”) to prepare a feasibility study, as that term is defined in Section 11-74.4-4.1 of the TIF Act, to assist in determining whether or not the establishment of a TIF District is appropriate for effective redevelopment of the Target Area (“*Feasibility Study*”); and

WHEREAS, the Village now desires to retain the Consultant to assist the Village in completing the various steps to form a TIF District (“*Phase 2 Services*”); and

WHEREAS, it is in the best interest of the Village to enter into an agreement with the Consultant for provision of the Phase 2 Services;

SECTION 1: RECITALS. The Village Board hereby adopts the foregoing recitals as its findings, as if fully set forth herein.

SECTION 2: APPROVAL OF AGREEMENT. Pursuant to the Village’s home rule authority, the agreement by and between the Village and Consultant is hereby approved in substantially the form attached to this Resolution as **Exhibit A** and a final form approved by the Village Attorney (“*Agreement*”).

SECTION 3: AUTHORIZATION TO EXECUTE AGREEMENT. The Mayor and

the Village Clerk are hereby authorized and directed to execute and attest, on behalf of the Village, the final Agreement upon receipt by the Village Clerk of at least one original copy of the final Agreement executed by Consultant; provided, however, that if the executed copy of the final Agreement is not received by the Village Clerk within 60 days after the effective date of this Resolution, then this authority to execute and attest will, at the option of the Mayor and Board of Trustees, be null and void.

SECTION 4: EFFECTIVE DATE. This Resolution shall be in full force and effect from and after its passage and approval according to law.

AYES: Benton, Berg, Jacoby, Oppenheim, Seiden

NAYS: None

ABSTAIN: None

ABSENT: Metts-Childers

PASSED: September 19, 2022

APPROVED: September 19, 2022

RESOLUTION NO. R-22-48

ATTEST:



Kent S. Street, Village Clerk



Daniel C. Shapiro, Mayor

EXHIBIT A

**VILLAGE OF DEERFIELD
PROFESSIONAL SERVICES AGREEMENT**

This AGREEMENT is dated as of the 30th day of September, 2022 (“*Agreement*”), and is by and between the VILLAGE OF DEERFIELD, an Illinois home rule municipal corporation (“*Village*”), and KANE, MCKENNA, AND ASSOCIATES, INC., an Illinois corporation at 150 North Wacker Drive, Suite 1600, Chicago, Illinois 60606 (“*Consultant*”).

IN CONSIDERATION OF the recitals and the mutual covenants and agreements set forth in the Agreement, and pursuant to the Village’s statutory and home rule powers, the parties agree as follows:

SECTION 1. SCOPE OF SERVICES. The Village retains the Consultant to perform, and the Consultant agrees to perform, all necessary services to perform the work identified below (“*Services*”), which Services the Consultant shall provide pursuant to the terms and conditions of this Agreement:

Complete the TIF Designation for the Downtown Area of the Village, as more fully described in Exhibit A.

SECTION 2. TIME OF PERFORMANCE. The Consultant shall perform the Services beginning on the execution date of this Agreement (“*Time of Performance*”) and perform the Services until they are complete, unless otherwise agrees to by the Parties (“*Term*”).

SECTION 3. COMPENSATION.

A. **Agreement Amount.** Consultant shall bill the Village for its Services pursuant to the hourly rates set forth in Exhibit A, provided that the total amount billed by the Consultant for the Services under this Agreement shall not exceed \$30,000.00, including reimbursable expenses, without the prior express written authorization of the Village Manager. Any payments due and owing to Consultant shall be paid by the Village within 45 days after receiving the invoice.

B. **Taxes, Benefits, and Royalties.** Each payment by the Village to the Consultant includes all applicable federal, state, and Village taxes of every kind and nature applicable to the Services as well as all taxes, contributions, and premiums for unemployment insurance, old age or retirement benefits, pensions, annuities, or similar benefits and all costs, royalties, and fees arising from the use of, or the incorporation into, the Services, of patented or copyrighted equipment, materials, supplies, tools, appliances, devices, processes, or inventions. All claim or right to claim additional compensation by reason of the payment of any such tax, contribution, premium, costs, royalties, or fees is hereby waived and released by Consultant.

SECTION 4. REPRESENTATIONS OF CONSULTANT. The Consultant represents and certifies that the Services shall be performed in accordance with the standards of professional practice, care, and diligence

practiced by recognized consultants in performing services of a similar nature in existence at the Time of Performance. The representations and certifications expressed shall be in addition to any other representations and certifications expressed in this Agreement, or expressed or implied by law, which are hereby reserved unto the Village.

The Consultant further represents that it is financially solvent, has the necessary financial resources, and is sufficiently experienced and competent to perform and complete the Services in a manner consistent with the standards of professional practice by recognized consultants providing services of a similar nature. The Consultant shall provide all personnel necessary to complete the Services.

SECTION 5. INDEMNIFICATION; INSURANCE; LIABILITY.

A. **Indemnification.** The Consultant proposes and agrees that the Consultant shall indemnify and save harmless the Village against all damages, liability, claims, losses, and expenses (including attorneys' fee) that may arise, or be alleged to have arisen, out of or in connection with the Consultant’s performance of, or failure to perform, the Services or any part thereof, or any failure to meet the representations and certifications set forth in Section 4 of this Agreement.

B. **Insurance.** The Consultant acknowledges and agrees that the Consultant shall, and has a duty to, maintain adequate insurance, in an amount, and in a form and from companies, acceptable to the Village. The Consultant’s maintenance of adequate insurance shall not be construed in any way as a limitation on the Consultant’s liability for losses or damages under this Agreement.

C. **No Personal Liability.** No elected or appointed official, or employee of the Village shall be personally liable, in law or in contract, to the Consultant as the result of the execution of this Agreement.

SECTION 6. GENERAL PROVISIONS.

A. **Relationship of the Parties.** The Consultant shall act as an independent contractor in providing

and performing the Services. Nothing in, nor done pursuant to, this Agreement shall be construed to: (1) create the relationship of principal and agent, employer and employee, partners, or joint venturers between the Village and Consultant; or (2) to create any relationship between the Village and any subcontractor of the Consultant.

B. Conflicts of Interest. The Consultant represents and certifies that, to the best of its knowledge: (1) no Village employee or agent is interested in the business of the Consultant or this Agreement; (2) as of the date of this Agreement, neither the Consultant nor any person employed or associated with the Consultant has any interest that would conflict in any manner or degree with the performance of the obligations under this Agreement; and (3) neither the Consultant nor any person employed by or associated with the Consultant shall at any time during the term of this Agreement obtain or acquire any interest that would conflict in any manner or degree with the performance of the obligations under this Agreement.

C. No Collusion. The Consultant represents and certifies that the Consultant is not barred from contracting with a unit of state or local government as a result of (1) a delinquency in the payment of any tax administered by the Illinois Department of Revenue unless the Consultant is contesting, in accordance with the procedures established by the appropriate revenue act, its liability for the tax or the amount of the tax, as set forth in Section 11-42.1-1 *et seq.* of the Illinois Municipal Code, 65 ILCS 5/11-42.1-1 *et seq.*; or (2) a violation of either Section 33E-3 or Section 33E-4 of Article 33E of the Criminal Code of 1961, 720 ILCS 5/33E-1 *et seq.* If at any time it shall be found that the Consultant has, in procuring this Agreement, colluded with any other person, firm, or corporation, then the Consultant shall be liable to the Village for all loss or damage that the Village may suffer, and this Agreement shall, at the Village's option, be null and void.

D. Termination. Notwithstanding any other provision hereof, the Village may terminate this Agreement at any time upon 15 days prior written notice to the Consultant. In the event that this Agreement is so terminated, the Consultant shall be entitled to retain only that portion of the Village's payment for Services actually performed and reimbursable expenses actually incurred, if any, prior to termination, not exceeding the value of the Services completed, and Consultant must return to the Village within 30 days of termination any payments for Services not yet provided to the Village.

E. Compliance with Laws and Grants. Consultant shall give all notices, pay all fees, and take all other action that may be necessary to ensure that the Services are provided, performed, and completed in accordance with all

required governmental permits, licenses, or other approvals and authorizations that may be required in connection with providing, performing, and completing the Services, and with all applicable statutes, ordinances, rules, and regulations, including without limitation the Fair Labor Standards Act; any statutes regarding qualification to do business; any statutes prohibiting discrimination because of, or requiring affirmative action based on, race, creed, color, national origin, age, sex, or other prohibited classification, including, without limitation, the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101 *et seq.*, and the Illinois Human Rights Act, 775 ILCS 5/1-101 *et seq.* Consultant shall also comply with all conditions of any federal, state, or local grant received by the Village or Consultant with respect to this Agreement or the Services. Consultant shall be solely liable for any fines or civil penalties that are imposed by any governmental or quasi-governmental agency or body that may arise, or be alleged to have arisen, out of or in connection with Consultant's, or its subcontractors, performance of, or failure to perform, the Services or any part thereof. Every provision of law required by law to be inserted into this Agreement shall be deemed to be inserted herein.

F. Default. If it should appear at any time that the Consultant has failed or refused to prosecute, or has delayed in the prosecution of, the Services with diligence at a rate that assures completion of the Services in full compliance with the requirements of this Agreement, or has otherwise failed, refused, or delayed to perform or satisfy the Services or any other requirement of this Agreement ("**Event of Default**"), and fails to cure any such Event of Default within ten business days after the Consultant's receipt of written notice of such Event of Default from the Village, then the Village shall have the right, without prejudice to any other remedies provided by law or equity, to (1) terminate this Agreement without liability for further payment; or (2) withhold from any payment or recover from the Consultant, any and all costs, including attorneys' fees and administrative expenses, incurred by the Village as the result of any Event of Default by the Consultant or as a result of actions taken by the Village in response to any Event of Default by the Consultant.

G. Assignment. This Agreement may not be assigned by the Village or by the Consultant without the prior written consent of the other party.

H. Notice. All notices required or permitted to be given under this Agreement shall be in writing and shall be delivered: (1) personally; (2) by a reputable overnight courier; or by (3) by certified mail, return receipt requested, and deposited in the U.S. Mail, postage prepaid. Unless otherwise expressly provided in this Agreement, notices shall be deemed received upon the earlier of: (a) actual receipt; (b) one business day after deposit with an overnight courier as evidenced by a receipt of deposit; or (c) three business days

following deposit in the U.S. mail, as evidenced by a return receipt. Notices and communications to the Village shall be addressed to, and delivered at, the following address:

Village of Deerfield
850 Waukegan Road
Deerfield, Illinois 60015
Attention: Village Manager

Notices and communications to the Consultant shall be addressed to, and delivered at, the following address:

Kane, McKenna and Associates, Inc.
150 North Wacker Drive, Suite 1600
Chicago, Illinois 60606
Attention: Philip McKenna

I. Waiver. Neither the Village nor the Consultant shall be under any obligation to exercise any of the

rights granted to them in this Agreement except as it shall determine to be in its best interest from time to time. The failure of the Village or the Consultant to exercise at any time any such rights shall not be deemed or construed as a waiver of that right, nor shall the failure void or affect the Village's or the Consultant's right to enforce such rights or any other rights.

J. Third Party Beneficiary. No claim as a third party beneficiary under this Agreement by any person, firm, or corporation shall be made or be valid against the Village.

K. Conflicts: Exhibits. If any term or provision in this Agreement conflicts with any term or provision of an attachment or exhibit to this Agreement, the terms and provisions of this Agreement shall control.

ATTEST:

By: Daniel Van Ruman
Deputy Village Clerk

ATTEST:

By: _____
Title: _____

VILLAGE OF DEERFIELD

By: Ken S. Stut
Village Manager

KANE, MCKENNA AND ASSOCIATES, INC.

By: Philip R. McKenna
Its: President

EXHIBIT A

Kane, McKenna
and Associates, Inc.

150 North Wacker Drive T 312 444 1702
Suite 1600 F 312 444.9052
Chicago, Illinois 60606

August 2, 2022



Mr. Kent Street
Village Manager
Village of Deerfield
850 Waukegan Road
Deerfield, Illinois 60015

**RE: Proposal to Complete TIF Designation For Downtown Area –
Village of Deerfield, Illinois**

Dear Mr. Street:

Kane, McKenna and Associates, Inc. ("KMA" or the "Consultant") has assisted the Village of Deerfield (the "Village") for purposes of reviewing the eligibility of certain properties located along or near Deerfield Road in the Village's Downtown Area (the "TIF Area") for purposes of Tax Increment Financing ("TIF").

KMA is of the opinion that the proposed TIF Area would likely qualify pursuant to eligibility factors under the TIF Act.

KMA is now proposing to complete the remaining steps to form a TIF in the TIF Area.

Kane, McKenna and Associates, Inc., will provide the following services to Village as in this phase.

CONSULTANT SCOPE OF SERVICES

A. Finalize Qualification Report

- 1) Finalize TIF Qualification Report for the site(s) based upon the presence of eligibility factors required under Illinois law.

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B. Preparation of TIF Redevelopment Plan

- 1) Review with the Village the preliminary boundaries for the plan as well as redevelopment goals and objectives.
- 2) Prepare a draft TIF Redevelopment Plan for the area based upon the presence of qualification factors required under Illinois law. KMA will be available to discuss the findings with the Village in meetings prior to completing the report.
- 3) Assist Village to prepare, refine and document the required redevelopment plan and project for the area that satisfy TIF eligibility criteria pursuant to Illinois law.
- 4) In the event that other local financing programs or economic development alternatives may be applicable, KMA would identify these programs and their conditions for use by the Village.

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C. Provide TIF Increment and Cost Projections

- 1) Assist Village staff to prepare the preliminary feasibility analysis of potential redevelopment projects incremental revenue (gross and net) and/or costs in order to summarize the potential funding advantages/disadvantages of various strategies.
- 2) Identify for the Village principal strategies for incentives and potential funding mechanisms based upon the potential redevelopment projects' ability to generate property, and/or other incremental taxes to cover anticipated costs and/or debt service requirements.
- 3) Identify issues that may exist if Village and Special Service Area (SSA) uses are combined or overlap. Review funding mechanisms and priorities with Village staff.
- 4) Review with the Village staff pros and cons of funding solely public improvements or considering extraordinary cost and gap financing utilization of TIF funding.

D. Finalize Redevelopment Plan

- 1) In conjunction with Village staff, finalize TIF and boundaries for each area, and assist in the process of preparation of legal descriptions which identify the boundaries for each of the redevelopment areas.
- 2) Subsequent to the review of the draft redevelopment plan by the Village Board, Village staff, and other taxing districts (if applicable), revise the redevelopment plan sections in order to add relevant comments and/or corrections.

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E. Prepare Public Hearing Notices

- 1) Assist Village staff to prepare the public hearing resolution and the TIF public notices.
- 2) Prepare mailings for affected taxing districts and distribute notices to the taxing districts and the Illinois Department of Commerce and Economic Opportunity.

F. Coordinate Joint Review Board (JRB) Process

- 1) Provide agenda items, draft TIF ordinances, and other materials as required by the TIF Act.
- 2) Attend JRB meetings as necessary and appropriate.
- 3) Assist Village staff to respond to JRB requests.
- 4) Assist Village Counsel to prepare JRB resolutions relating to findings.

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G. Preparation of Notices

- 1) Identify taxpayers located within the TIF district and obtain mailing information from the County.
- 2) Prepare mailings for taxpayers including review of delinquent taxpayers.
- 3) Manage the mailings to residents within 750 feet of the TIF District boundaries.
- 4) Assist Village staff in coordinating publication of legal notices in local newspapers.

H. Attend Public Hearings and Required Meetings

- 1) Assist the Village by participating in the required public hearing, and meetings with all interested and affected parties, including property owners.
- 2) Work with the Village staff to meet all the requirements of Illinois law.

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FEES FOR SERVICES

KMA normally bills for services on an hourly fee basis for the services requested. We find this more prudent for the client – since the client can exercise control on KMA attendance at meetings, involvement in certain implementation tasks, etc. We also believe that it is more prudent for KMA because we can then budget our time and resources most appropriately. As required by the Village, KMA has set forth maximum not to exceed fees for each Phase.

Estimated Fees are found below:

Fees would be charged monthly at the hourly rates set forth below.

Hourly Rate Breakdown:

<u>Personnel</u>	<u>Hourly Rates</u>
President	\$275.00/Hour
Executive Vice President	\$250.00/Hour
Officers	\$225.00/Hour
Associates	\$200.00/Hour
Administrative	\$ 50.00/Hour

Estimated fees for this phase would be \$25,000 - \$30,000

The above assumes that no Housing Impact Study is required for a new TIF District. If such a Study is needed, this contract would need to be amended.

150 North Wacker Drive T 312 . 444 . 1702
Suite 1600 F 312 . 444 . 9052
Chicago, Illinois 60606

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Out of pocket expenses are not included in the fees above and include: Certified and other mailing costs, legal description, and newspaper notice/publication costs – these amounts are to be paid by the Village separately.

We look forward to continuing to work with you on this Project.

Sincerely,

Philip R. McKenna
President

AGREED TO:

Philip McKenna, President
Kane, McKenna and Associates, Inc.

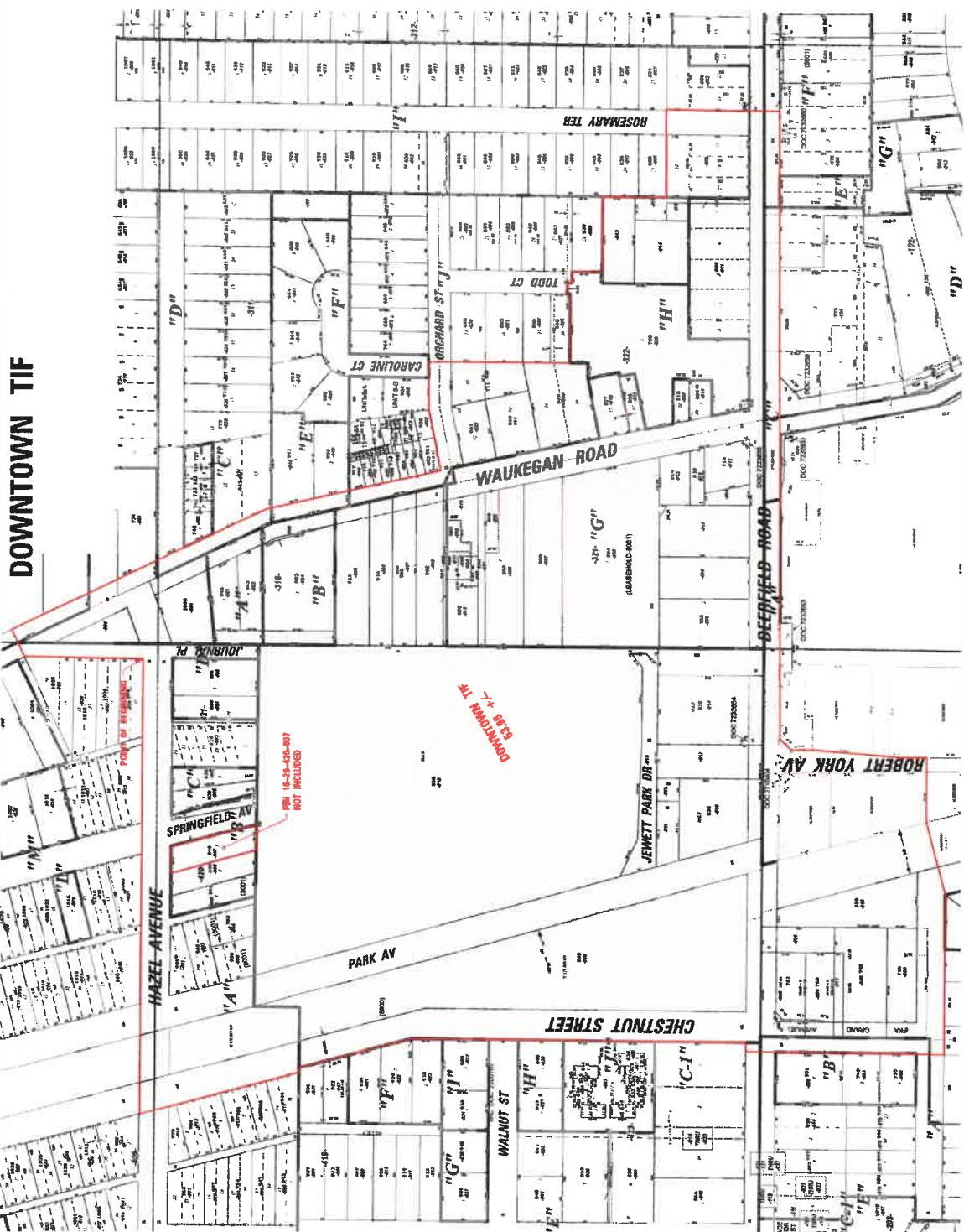
8-2-2022

Date

Village of Deerfield

Date

DOWNTOWN TIF



DATE	BY	PROJECT NO.
08-01-2002	KJP	220478
SCALE	DATE	SHEET NO. OF
1"=100'	08-01-2002	1 OF 1
DRAWN BY	PROJECT NO.	117240288
KJP	220478	

DOWNTOWN TIF
 IN
 VILLAGE OF DEERFIELD, ILLINOIS
 PREPARED FOR
 VILLAGE OF DEERFIELD

CHRISTOPHER B. BURKE ENGINEERING, L.L.C.
 5575 East Higgins Road, Suite 400
 Rosemont, Illinois 60018
 (847) 823-0500

