

RESOLUTION 15-05

AUTHORIZING A CONTRACTUAL AGREEMENT WITH HOLLAND AND KNIGHT LLP FOR LEGAL SERVICES RELATING TO A LONG-TERM WATER SUPPLY AGREEMENT FOR THE VILLAGES OF MORTON GROVE AND NILES

WHEREAS, the Village of Morton Grove (Village), located in Cook County, Illinois, is a home rule unit of government under the provisions of Article 7 of the 1970 Constitution of the State of Illinois, can exercise any power and perform any function pertaining to its government affairs, including but not limited to the power to tax and incur debt; and

WHEREAS, for many decades, the Village of Morton Grove has purchased water from the City of Chicago. Due to recent substantial rate hikes from the City of Chicago, the Village began working in collaboration with the Village of Niles to determine whether either or both communities could purchase water from an alternative source at a more favorable rate; and

WHEREAS, the Village has received serious proposals from the City of Evanston and the Villages of Wilmette/Glenview which have been reviewed by Village staff, William Balling of WRBLLC Consulting and Management Services, and Gewalt Hamilton Associates, Inc; and

WHEREAS, due to the technical and specialized nature of water supply contracts, it is in the best interest of the Village to retain special counsel to assist the Villages of Morton Grove and Niles in the analysis, negotiations and drafting of a water supply agreement and related issues should the Village pursue a contract with one of the alternative sources; and

WHEREAS, Corporation Counsel has recommended the Village retain the services of Holland and Knight, LLP as special counsel for issues related to the Village's Water Supply Contract. The costs for these services shall be paid equally by the Villages of Morton Grove and Niles.

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

SECTION 1: The Corporate Authorities do hereby incorporate the foregoing WHEREAS clauses into this Resolution as though fully set forth therein thereby making the findings as hereinabove set forth.

SECTION 2: The Village President is hereby authorized to execute an agreement with Holland and Knight for the joint representation of Morton Grove and Niles for water supply related issues in

substantial conformity to Exhibit "A" attached hereto.

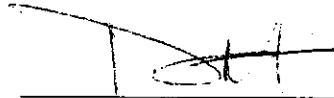
SECTION 3: The Village Administrator, Corporation Counsel and/or his/her designee are hereby authorized to take all steps necessary to implement said contract.

SECTION 4: This Resolution shall be in full force and effect upon its passage and approval.

PASSED this 26th day of January 2015.

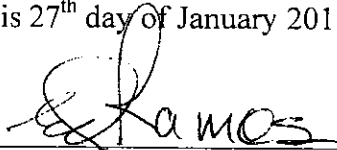
Trustee Grear	<u>aye</u>
Trustee Marcus	<u>aye</u>
Trustee Pietron	<u>aye</u>
Trustee Thill	<u>aye</u>
Trustee Toth	<u>aye</u>
Trustee Witko	<u>aye</u>

APPROVED by me this 26th day of January 2015.



Daniel P. DiMaria, Village President
Village of Morton Grove
Cook County, Illinois

APPROVED and FILED in my office
This 27th day of January 2015.



Ed Ramos, Village Clerk
Village of Morton Grove
Cook County, Illinois

Holland & Knight

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January 19, 2015

Ms. Teresa Hoffman Liston
Village Attorney
Village of Morton Grove
6101 Capulina Avenue
Morton Grove, IL 60053

Mr. Joseph Annunzio
Village Attorney
Village of Niles
1000 Civic Center Drive
Niles, IL 60714

*Re: Joint Engagement and Representation—
Water Supply Agreement and Related Issues*

Dear Ms. Liston and Mr. Annunzio:

You have requested that Holland & Knight LLP (“H&K”) represent the Villages of Morton Grove and Niles (collectively, “Villages”) in connection with (1) the review, discussion, drafting and negotiation of an agreement and other documents necessary to enable the Villages to obtain a supply of Lake Michigan water from one or more of the Village of Wilmette (which may be delivered via the Village of Glenview) or the City of Evanston, (2) the preparation of related intergovernmental agreements to enable the Villages to design, construct, and install necessary common improvements for the transmission of Lake Michigan water, (3) advice regarding alternatives for intergovernmental cooperation between the Villages, including the possible creation of a new intergovernmental water supply entity, and (4) other related matters as assigned (collectively, the “Project”).

The purpose of this letter is to confirm our engagement as counsel by both Villages, and to provide you certain information concerning our fees, billing and collection policies, and other terms that will govern our relationship. Although we do not wish to be overly formal in our relationship with you, we have found it a helpful practice to confirm with our clients the nature and terms of our representation. Attached to this letter are our firm's standard terms of engagement for local government representation. Please review these and let me know if you have any questions concerning our policies.

Because the Villages are subject to the Illinois Local Government Prompt Payment Act, 50 ILCS 505/1 *et seq.*, we do not require an advance fee deposit for our services. You have advised that you will each be responsible to pay one-half of the cost for our services, and have requested that we provide all billing information to both Villages. Both Villages will be jointly and severally liable in the event that one Village fails to pay.

Our services will be provided based upon our "local government" hourly rates, which are substantially discounted from our standard rates. The current local governmental rates of several attorneys on our Illinois State and Local Government Practice Team I may call upon to assist on the Project are set forth in Appendix A to this letter. These rates are ordinarily reviewed and adjusted in October of each year.

In order to represent both of you, rigorous ethical requirements must be met.

Joint representation of multiple clients, which is ordinarily a conflict of interest, is allowed if the lawyer reasonably believes the representation of the clients will not be adversely affected, and the clients consent after disclosure, including explanation of the implications of the common representation and the advantages and risks involved. Based on the information you have provided, we have concluded that H&K can represent both of you in the Project. However, please consider the following.

1. Although the law is not settled, it is our opinion that any information disclosed by you to us in connection with the joint representation will not be protected by the lawyer-client privilege in a subsequent legal proceeding brought by one of you against the other involving this representation. Moreover, we believe we cannot effectively represent both of you if information disclosed to us by one of you must be preserved in confidence from the other. Accordingly, in the course of this representation, we will disclose to both of you all information we receive from either of you relating to the Project. Therefore, if H&K is to represent all of you in connection with the Project, it will only be with the express understanding that each of you has waived the lawyer-client privilege to the extent, but only to the extent, that the privilege might otherwise require us to preserve in confidence information disclosed to us by one of you from another of you, either in the course of this representation or in connection with any subsequent legal proceeding brought by one of you against the other involving this representation.

2. At this time, there does not appear to be any difference of opinion between the Villages with respect to the legal issues involved in the Project, your rights and obligations in the matter, or the most effective strategy of dealing with the legal issues presented. However, should material differences develop between you in the future that cannot be amicably resolved between you, or that H&K concludes cannot be resolved on terms compatible with the best interests of both of you, then you agree that the firm must at that time withdraw from the representation of both of you on the Project without breaching any obligation to you. Should this occur, we will assist each of you in obtaining new counsel if you wish. You would, of course, continue to be responsible for payment of all the firm's accrued legal fees and expenses advanced on your behalf.

In addition to these considerations relating to the proposed joint representation, there is also a potential conflict of interest under the Rules of Professional Conduct with respect to our representation of each of your Villages as special counsel. In particular, we currently represent Morton Grove in connection with tax increment financing matters and we represent Niles from time to time on special projects relating to particular issues, most recently regarding referenda involving public officials of Niles. We do not expect any of these representations to have any detrimental impact on our representation of your two Villages. In order for H&K to undertake this joint representation, it will also require each of the Villages to agree that H&K's service as

counsel in this joint representation for the Project will not be asserted as a conflict of interest with respect to any representations that H&K may provide to the other Village.

In the event that litigation develops between Morton Grove and Niles regarding the Project, each client will retain separate and independent counsel outside H&K to handle pre-litigation and litigation work, and H&K will not represent either party in such a situation.

Obviously, each of you has the right to obtain separate legal counsel. However, it is the firm's understanding, notwithstanding the considerations set forth above, that you wish H&K to represent both of you jointly in connection with the Project and subject to the waiver discussed above.

If the terms described above and in the attached terms of engagement are satisfactory, and you are willing to consent to H&K's joint representation, waive any right to object to a conflict of interest, and accept the limitations on our professional responsibilities to you, all based on the disclosures and conditions set forth in this letter, please so indicate in the space provided below, and return one copy of this letter to me by mail, with a copy by electronic mail. Our engagement began on January 9, 2015, subject to your confirmation by signing this letter on page 4.

Thank you for retaining H&K and we look forward to working with you to bring these matters to a successful conclusion.

Very truly yours,

HOLLAND & KNIGHT LLP

By: Barbara A. Adams
Barbara A. Adams

BAA/rls

CONSENT TO JOINT REPRESENTATION

The Village of Morton Grove and the Village of Niles consent to Holland & Knight LLP's joint representation in the Project on the terms and conditions set forth in this letter.

VILLAGE OF MORTON GROVE

VILLAGE OF NILES

By: [Signature]
Its: Daniel P. DiMaria, Village President
Date: January 26, 2015

By: _____
Its: _____
Date: _____

HOLLAND & KNIGHT LLP
TERMS OF ENGAGEMENT

We appreciate your decision to retain Holland & Knight LLP as your legal counsel.

This document explains how we work, our obligations to you, your obligations to us, what we will do on your behalf, and how our charges will be determined and billed. Experience has shown that an understanding of these matters will contribute to a better relationship between us, and that in turn makes our efforts more productive.

Our engagement and the services that we will provide to you are limited to the matter identified in the accompanying letter. Any changes in the scope of our representation as described in the letter must be approved in writing. We will provide services of a strictly legal nature related to the matters described in that letter. You will provide us with the factual information and materials we require to perform the services identified in the letter, and you will make such business or technical decisions and determinations as are appropriate. You will not rely on us for business, investment, or accounting decisions, or expect us to investigate the character or credit of persons or entities with whom you may be dealing, unless otherwise specified in the letter.

We cannot guarantee the outcome of any matter. Any expression of our professional judgment regarding your matter or the potential outcome is, of course, limited by our knowledge of the facts and based on the law at the time of expression. It is also subject to any unknown or uncertain factors or conditions beyond our control.

Confidentiality and Related Matters

Regarding the ethics of our profession that will govern our representation, several points deserve emphasis. As a matter of professional responsibility, we are required to hold confidential all information relating to the representation of our clients, subject to certain exceptions that we will discuss with you. This professional obligation and the legal privilege for attorney-client communications exist to encourage candid and complete communication between a client and his lawyer. We can perform truly beneficial services for a client only if we are aware of all information that might be relevant to our representation. Consequently, we trust that our attorney-client relationship with you will be based on mutual confidence and unrestrained communication that will facilitate our proper representation of you.

Additionally, you should be aware that, in instances in which we represent a corporation, government, or other entity, our client relationship is with the entity and not with its individual executives, shareholders, directors, members, managers, partners, elected or appointed officials, or persons in similar positions, or with its parent, subsidiaries, or other affiliates. In those cases, our professional responsibilities are owed only to that entity, alone, and no conflict of interest will be asserted by you because we represent persons with respect to interests that are adverse to individual persons or business organizations who have a relationship with you. That is to say, unless the letter accompanying this document indicates otherwise, Holland & Knight's attorney-client relationship with the entity does not give rise to an attorney-client relationship with the parent, subsidiaries or other affiliates of the entity, and representation of the entity in this matter will not give rise to any conflict of interest in the event other clients of the firm are adverse to the parent, subsidiaries or other affiliates of the entity. Of course, we can also represent individual executives, shareholders, directors, members, managers, partners, elected or appointed officials, and other persons related to the entity in matters that do not conflict with the interests of the entity, but any such representation will be the subject of a separate engagement letter. Similarly, when we represent a party on an insured claim, we represent the insured, not the insurer, even though we may be approved, selected, or paid by the insurer.

Of course, as a governmental entity, the Villages are subject to various "sunshine" laws, such as the Freedom of Information Act and the Open Meetings Act, which require certain information and activities to be accessible to the public. To the extent that we obtain any information from either of the Villages or their officers, officials, and employees that is not subject to disclosure under applicable laws or that is not otherwise obtained in a public forum, we will treat such matters as confidential. On the other hand, if we obtain information in the course of our representation of the Villages and such information would be obtainable under applicable law by members of the

public, such information would not be confidential and could be disclosed to others. We will, of course, adhere to these same information disclosure principles with our other governmental and private sector clients.

The firm attempts to achieve efficiencies and savings for its clients by managing the firm's administrative operations (e.g., file storage, document duplication, word processing, accounting/billing) in the most efficient manner possible, including outsourcing certain functions to third parties. Outsourcing in this manner may require the firm to allow access by third parties to your confidential information, and in some cases, these third parties may be located outside the United States. The firm will follow applicable legal ethics rules with regard to such outsourcing and protection of confidential information.

Fees and Billing

Clients frequently ask us to estimate the fees and other charges they are likely to incur in connection with a particular matter. We are pleased to respond to such requests whenever possible with an estimate based on our professional judgment. This estimate always carries the understanding that, unless we agree otherwise in writing, it does not represent a maximum, minimum, or fixed fee quotation. The ultimate cost frequently is more or less than the amount estimated.

Legal Fees. We encourage flexibility in determining billing arrangements. For example, we often agree with our clients to perform services on a fixed-fee or other basis that we and the client believe will encourage efficiency and reflect the value of our services in relation to a particular objective.

If you and we have agreed on a fixed fee arrangement, our fees will not be limited to the fixed amount if you fail to make a complete and accurate disclosure of information that we have requested and that we reasonably require for our work, or if you materially change the terms, conditions, scope, or nature of the work, as described by you when we determined the fixed amount. If any of these events occurs, our fees will be based upon the other factors described below, unless you and we agree on a revised fixed fee.

If the accompanying engagement letter does not provide for a fixed fee, or if we do not otherwise confirm to you in writing a fee arrangement, our fees for services will be determined as described in the following paragraphs.

When establishing fees for services that we render, we are guided primarily by the time and labor required, although we also consider other appropriate factors, such as the novelty and difficulty of the legal issues involved; the legal skill required to perform the particular assignment; time-saving use of resources (including research, analysis, data and documentation) that we have previously developed and stored electronically or otherwise in quickly retrievable form; the fee customarily charged by comparable firms for similar legal services; the amount of money involved or at risk and the results obtained; and the time constraints imposed by either you or the circumstances. In determining a reasonable fee for the time and labor required for a particular matter, we consider the ability, experience, and reputation of the lawyer or lawyers in our firm who perform the services. To facilitate this determination, we internally assign to each lawyer an hourly rate based on these factors. Of course, our internal hourly rates change periodically to account for increases in our cost of delivering legal service, other economic factors, and the augmentation of a particular lawyer's ability, experience, and reputation. Any such changes in hourly rates are applied prospectively, as well as to unbilled time previously expended. We record and bill our time in one-tenth hour (six minute) increments.

When selecting lawyers to perform services for you, we generally seek to assign lawyers having the lowest hourly rates consistent with the skills, time demands, and other factors influencing the professional responsibility involved in each matter. That does not mean that we will always assign a lawyer with a lower hourly rate than other lawyers. As circumstances require, the services of lawyers in the firm with special skills or experience may be sought when that will either (a) reduce the legal expense to you, (b) provide a specialized legal skill needed, or (c) help move the matter forward more quickly. Also, to encourage the use of such lawyers in situations where their services can provide a significant benefit that is disproportionate to the time devoted to the matter, we may not bill for their services on an hourly rate basis but, if you agree in advance, we will adjust the fee on an "added value" basis at the conclusion of the matter if and to the extent their services contribute to a favorable result for you.

Disbursements. In addition to legal fees, our statements will include out-of-pocket expenses that we have advanced on your behalf and our internal charges (which may exceed direct costs and allocated overhead expenses) for certain support activities. Alternatively, the firm may charge for such internal charges as a percentage of the fees charged. Advanced expenses generally will include, but are not limited to, such items as travel, postage, filing, recording, certification, and registration fees charged by governmental bodies. Our

internal charges typically include, but are not limited to, such items as toll calls, facsimile transmissions, overnight courier services, certain charges for terminal time for computer research and complex document production, and charges for photocopying materials sent to the client or third parties or required for our use.

We may request an advance cost deposit when we expect that we will be required to incur substantial costs on behalf of the client.

During the course of our representation, it may be appropriate to hire third parties to provide services on your behalf. These services may include such things as consulting or testifying experts, investigators, providers of computerized litigation support, and court reporters. Because of the legal "work product" protection afforded to services that an attorney requests from third parties, in certain situations our firm may assume responsibility for retaining the appropriate service providers. Even if we do so, however, you will be responsible for paying all fees and expenses directly to the service providers or reimbursing us for these expenses.

The firm attempts to achieve efficiencies and savings for its clients when dealing with independent contractors. The firm may be able to obtain a reduced charge from the contractor if the firm provides certain functions, such as billing, collection, equipment, space, facilities, or clerical help. For these administrative and coordination services, the firm may charge an administrative fee, which will be separately disclosed to you.

Billing. We bill periodically throughout the engagement for a particular matter, and our periodic statements are due when rendered. If our fees are based primarily on the amount of our time devoted to the matter, our statements will be rendered monthly. In instances in which we represent more than one person with respect to a matter, each person that we represent is jointly and severally liable for our fees and expenses with respect to the representation. Our statements contain a concise summary of each matter for which legal services are rendered and a fee is charged.

If a statement remains unpaid for more than 30 days, you will be contacted by an H&K representative inquiring why it is unpaid. Additionally, if a statement has not been paid within 30 days from its date, the firm may impose an interest charge of 1.25 percent per month (a 15 percent annual percentage rate) from the 30th day after the date of the statement until it is paid in full. Interest charges apply to specific monthly statements on an individual statement basis. Any payments made on past due statements are applied first to the oldest outstanding statement.

It is the firm's policy that if an invoice remains unpaid for more than 90 days, absent extraordinary circumstances and subject to legal ethics constraints, H&K's representation will cease, and you hereby authorize us to withdraw from all representation of you. Any unapplied deposits will be applied to outstanding balances. Generally, the firm will not recommence its representation or accept new work from you until your account is brought current and a new deposit for fees and costs, in an amount that the firm determines, is paid to it.

In addition, if you do not pay H&K's statements as they become due, the firm may require a substantial partial payment and delivery of an interest-bearing promissory note as part of any arrangement under which it may, in its discretion, agree to continue its representation. Any such promissory note will serve merely as evidence of your obligation, and shall not be regarded as payment.

If allowed by applicable law, H&K is entitled to reasonable attorneys' fees and court costs if collection activities are necessary. In addition, H&K shall have all general, possessory, or retaining liens, and all special or charging liens, recognized by law.

Payment of our fees and costs is not contingent on the ultimate outcome of our representation, unless we have expressly agreed in writing to a contingent fee.

Questions About Our Bills. We invite you to discuss freely with us any questions that you have concerning a fee charged for any matter. We want our clients to be satisfied with both the quality of our services and the reasonableness of the fees that we charge for those services. We will attempt to provide as much billing information as you require and in such customary form that you desire, and are willing to discuss with you any of the various billing formats we have available that best suits your needs.

Relationships with Other Clients

Because we are a large, full-service law firm with offices located in various cities we may be (and often are) asked to represent a client with respect to interests that are adverse to those of another client who is represented by the firm in connection with another matter. Just as you would not wish to be prevented in an appropriate situation from retaining a law firm that competes with Holland & Knight LLP, our firm wishes to be able to consider the representation of other persons or entities that may be competitors in your industry or who may have interests that are adverse to yours, but with respect to matters that are unrelated in any way to our representation of you. The ethics that govern us permit us to accept such multiple representations, assuming certain conditions are met, as set forth below.

During the term of this engagement, we will not accept representation of another client to pursue interests that are directly adverse to your interests unless and until we make full disclosure to you of all the relevant facts, circumstances, and implications of our undertaking the two representations, and confirm to you in good faith that we have done so and that the following criteria are met: (i) there is no substantial relationship between any matter in which we are representing or have represented you and the matter for the other client; (ii) any confidential information that we have received from you will not be available to the lawyers and other Holland & Knight LLP personnel involved in the representation of the other client; (iii) our effective representation of you and the discharge of our professional responsibilities to you will not be prejudiced by our representation of the other client; and (iv) the other client has also consented in writing based on our full disclosure of the relevant facts, circumstances, and implications of our undertaking the two representations. If the foregoing conditions are satisfied, we may undertake the adverse representation and all conflict issues will be deemed to have been resolved or waived by you.

By making this agreement, we are establishing the criteria that will govern the exercise of your right under applicable ethical rules to object to our representation of another client whose interests are adverse to yours. If you contest in good faith the facts underlying our confirmation to you that the specified criteria have been met, then we will have the burden of reasonably supporting those facts.

Knowledge Management Tool

In order to better and more economically serve our clients, we have implemented a document search engine that will allow us to search the firm's institutional work product to determine whether there exist documents created for one client that can be used as a starting point for the preparation of new documents for other clients. Documents that are subject to ethics wall restrictions, have extraordinary confidentiality requirements, or contain sensitive client information will not be included in this system.

Termination

Upon completion of the matter to which this representation applies, or upon earlier termination of our relationship, the attorney-client relationship will end unless you and we have expressly agreed to a continuation with respect to other matters. We hope, of course, that such a continuation will be the case. The representation is terminable at will by either of us. The termination of the representation will not terminate your obligation to pay fees and expenses incurred prior to the termination and for any services rendered or disbursements required to implement the transition to new counsel.

Your agreement to this engagement constitutes your acceptance of the foregoing terms and conditions. If any of them is unacceptable to you, please advise us now so that we can resolve any differences and proceed with a clear, complete, and consistent understanding of our relationship.

**APPENDIX A
HOLLAND & KNIGHT
Hourly Rates as of October, 2014
Selected Attorneys Expected to Serve**

<u>Attorney</u>	<u>Billing Rate *</u>
Barbara A. Adams (Chicago Partner)	\$340
Stewart Weiss (Chicago Associate)	\$260
Benjamin Schuster (Chicago Associate)	\$205
Karl Camillucci (Chicago Associate)	\$195
Lisa Brown (Chicago Associate)	\$175

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- * NOTE:
- (1) Rates subject to change effective October 1st of each year.
 - (2) The rates reflected above are special government rates, reserved only to our governmental clients for whom we serve as special counsel. These reflect a substantial discount from our standard rates for partners (\$550-695/hour) and associates (\$265-500).