

RESOLUTION 15-60

AUTHORIZING A CONTRACTUAL AGREEMENT WITH RAFTELIS FINANCIAL CONSULTANTS, INC. FOR WATER RATE ANALYSIS SERVICES RELATING TO THE NEGOTIATIONS OF A LONG-TERM WATER SUPPLY AGREEMENT BETWEEN THE CITY OF EVANSTON AND THE VILLAGES OF NILES AND MORTON GROVE

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 negotiate a long term water supply agreement with the City of Evanston; and

WHEREAS, an important component of the contract negotiations is the determination of the wholesale water rate Evanston proposes to charge Niles and Morton Grove. Said rate is based on a formula which allocates the value of the assets and expenses Evanston will utilize to collect, treat, and deliver water to Morton Grove and Niles; and

WHEREAS, due to the technical and specialized nature of water supply contracts, it is in the best interest of the Village to retain a financial analyst with specialized expertise in the analysis of the factors and components which are used in determining the wholesale water rate; and

WHEREAS, in response to a Request for Qualifications, the Villages received a proposal from Raftelis Financial Consultants of Kansas City, Missouri ("Raftelis"). Raftelis is a highly regarded nationally renown expert in evaluating wholesale water rates, and has successfully assisted the Northwest Water Commission, Village of Glenview, and City of Naperville for projects similar in size and complexity to the Villages' negotiations with the city of Evanston; and

WHEREAS, Raftelis has proposed to review and analyze Evanston's existing assets, costs and expenses to ensure they are appropriately valued and allocated among all its customers; evaluate the proposed rate of return, proposed replacement cost of the system's assets, and the proposed allocation of total system capacity among all customers; and

WHEREAS, Village staff has recommended the Villages of Niles and Morton Grove jointly retain the services of Raftelis Financial Consultants of Kansas City, Missouri as their financial consultant to evaluate and assist with the negotiations of the wholesale water rate for a long term water supply agreement with the

City of Evanston pursuant to the terms set forth in the professional service agreement attached hereto as Exhibit "A".

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 a joint agreement between the Villages of Morton Grove and Niles and Raftelis Financial Consultants of Kansas City, Missouri for financial consulting services in substantial conformity to Exhibit "A" attached hereto.

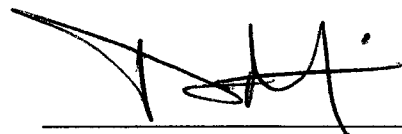
SECTION 3: The Village Administrator, and Corporation Counsel and/or his/her designee are hereby authorized to take all steps necessary to implement said contract.

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

Passed this 10th day of August 2015.

Trustee Gear	<u>AYE</u>
Trustee Minx	<u>AYE</u>
Trustee Pietron	<u>AYE</u>
Trustee Ramos	<u>AYE</u>
Trustee Thill	<u>AYE</u>
Trustee Witko	<u>AYE</u>

Approved by me this 10th day of August 2015



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

Attested and Filed in my office
this 11th day of August 2015

Connie Travis
Connie Travis, Village Clerk
Village of Morton Grove
Cook County, Illinois

**VILLAGE OF MORTON GROVE
VILLAGE OF NILES
PROFESSIONAL SERVICES AGREEMENT
FOR JOINT WATER PURCHASE PROJECT**

THIS AGREEMENT is dated as of the 14th day of August, 2015 ("Agreement") and is by, between and among the VILLAGE OF MORTON GROVE, an Illinois municipal corporation ("**Morton Grove**"), the VILLAGE OF NILES ("**Niles**") (Morton Grove and Niles collectively sometimes referred to as "**Villages**") and the Consultant identified in Subsection 1A below.

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

SECTION 1. CONSULTANT.

A. **Engagement of Consultant.** The Villages desire to jointly engage the Consultant identified below to provide all necessary professional consulting services and to perform the work in connection with the project identified below:

Stanley Consultants, Inc. ("**Consultant**")
8501 W. Higgins Road, Suite 730
Chicago, IL 60631-2801
Telephone: (773) 693-9624
Email: thomaslarry@stanleygroup.com

B. **Project Description.** In connection with the Villages' consideration and analysis of alternate sources of supply of Lake Michigan water, and preparation and negotiation of contracts and other documents pertaining to an alternate source of supply, the Consultant will provide water system construction cost estimating consulting services to, and analysis and advice in support of, the Villages' efforts to procure an alternate source of supply.

C. **Representations of Consultant.** The Consultant has submitted to the Villages a description of the services to be provided by the Consultant, a copy of which is attached as Exhibit A to this Agreement ("**Services**"). The Consultant represents that it is financially solvent, has the necessary financial resources, and is sufficiently experienced and competent to perform and complete the professional consulting services set forth in Exhibit A in a manner consistent with the standards of professional practice by recognized consulting firms providing services of a similar nature.

D. **Agreement Amount.** The total amount billed by the Consultant for the Services under this Agreement shall not exceed Ten Thousand Four Hundred Dollars (\$10,400.00) for the Base Scenario and Alternates 1, 2 and 3 of the Services, as outlined in Exhibit B, which not-to-exceed amount includes reimbursable expenses as identified in Exhibit B, unless amended pursuant to Subsection 8A of this Agreement.

E. **Cost Estimates.** Since Consultant has no control over cost of labor, materials, equipment or services furnished by others, over contractor's methods of determining prices, or over competitive bidding or market conditions, its estimates of project construction cost will be made on the basis of its employees' experience and qualifications and will represent their best judgment as experienced and qualified professionals, familiar with the construction industry.

Consultant does not guarantee that proposals, bids, or actual construction cost will not vary from its estimates of project cost.

SECTION 2. SCOPE OF SERVICES.

A. Retention of the Consultant. The Villages retain the Consultant to perform, and the Consultant agrees to perform, the Services.

B. Services. The Consultant shall provide the Services pursuant to the terms and conditions of this Agreement.

C. Commencement; Time of Performance. The Consultant's provision of Services commenced on August 6, 2015 (the "***Commencement Date***"). The Consultant shall diligently and continuously prosecute the Services until the completion of the Work not later than September 4, 2015 ("***Time of Performance***").

D. Assignments; Coordination; Reporting. Assignments and tasks will be assigned to the Consultant shall regularly report to William Balling of WRB, LLC, regarding the progress of the Services during the term of this Agreement. The Consultant will coordinate all work with William Balling of WRB, LLC.

SECTION 3. COMPENSATION AND METHOD OF PAYMENT.

A. Agreement Amount. The total amount billed for the Proposal during the term of this Agreement shall not exceed the amount identified as the Agreement Amount in Subsection 1D of this Agreement, without the prior express written authorization of the Villages.

B. Invoices and Payment. The Consultant shall be paid as provided in Exhibit B. The Consultant shall submit invoices to the Villages in an approved format for those portions of the Services performed and completed by the Consultant. The amount billed in any such invoice shall be based on the method of payment set forth in Exhibit B. Each Village shall be responsible for one-half of the amount billed for the Services and each Village shall pay to the Consultant the amount billed to it within 30 days after its receipt and approval of such an invoice.

C. Records. The Consultant shall maintain records showing actual time devoted and costs incurred, and shall permit the authorized representative of the Villages to inspect and audit all data and records of the Consultant for work done under the Agreement. The records shall be made available to the Villages at reasonable times during the Agreement period, and for three years after the termination of the Agreement.

D. Claim In Addition To Agreement Amount. If the Consultant wishes to make a claim for additional compensation as a result of action taken by the Villages, the Consultant shall provide written notice to the Villages of such claim within 7 days after occurrence of such action as provided by Subsection 8D of this Agreement, and no claim for additional compensation shall be valid unless made in accordance with this Subsection. Any changes in the Agreement Amount shall be valid only upon written amendment pursuant to Subsection 8A of this Agreement. Regardless of the decision of the Villages relative to a claim submitted by the Consultant, the Consultant shall proceed with all of the Services required to complete the Services under this Agreement as determined by the Villages without interruption.

E. Taxes, Benefits and Royalties. The Agreement Amount includes all applicable federal, state, and local 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 on, 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.

F. **Final Acceptance.** The Services, or, if the Services are to be performed in separate phases, each phase of the Services, shall be considered complete on the date of final written acceptance by each of the Villages of the Services or each phase of the Services, as the case may be, which acceptance shall not be unreasonably withheld or delayed.

SECTION 4. PERSONNEL; SUBCONTRACTORS.

A. **Key Project Personnel.** The Key Project Personnel identified in Exhibit A shall be primarily responsible for carrying out the Services on behalf of the Consultant. The Key Project Personnel shall not be changed without the Villages' prior written approval.

B. **Availability of Personnel.** The Consultant shall provide all personnel necessary to complete the Services including, without limitation, any Key Project Personnel identified in this Agreement. The Consultant shall notify the Village as soon as practicable prior to terminating the employment of, reassigning, or receiving notice of the resignation of, any Key Project Personnel. The Consultant shall have no claim for damages and shall not bill the Village for additional time and materials charges as the result of any portion of the Services which must be duplicated or redone due to such termination or for any delay or extension of the Time of Performance as a result of any such termination, reassigning, or resignation.

C. **Approval and Use of Subcontractors.** The Consultant shall perform the Services with its own personnel and under the management, supervision, and control of its own organization unless otherwise approved by the Villages in writing. All subcontractors and subcontracts used by the Consultant shall be acceptable to, and approved in advance by, the Villages. The Villages' approval of any subcontractor or subcontract shall not relieve the Consultant of full responsibility and liability for the provision, performance, and completion of the Services as required by the Agreement. All Services performed under any subcontract shall be subject to all of the provisions of this Agreement in the same manner as if performed by employees of the Consultant. For purposes of this Agreement, the term "Consultant" shall be deemed also to refer to all subcontractors of the Consultant, and every subcontract shall include a provision binding the subcontractor to all provisions of this Agreement.

D. **Removal of Personnel and Subcontractors.** If any personnel or subcontractor fails to perform the Services in a manner satisfactory to the Villages, the Consultant shall immediately upon notice from the Villages remove and replace such personnel or subcontractor. The Consultant shall have no claim for damages, for compensation in excess of the amount contained in this Agreement or for a delay or extension of the Time of Performance as a result of any such removal or replacement.

SECTION 5. CONFIDENTIAL INFORMATION.

A. **Confidential Information.** The term "***Confidential Information***" shall mean information in the possession or under the control of the Villages relating to the technical, business or corporate affairs of the Villages; property of the Villages; user information, including, without limitation, any information pertaining to usage of the Villages' computer systems, including and without limitation, any information obtained from server logs or other records of

electronic or machine readable form; and the existence of, and terms and conditions of, this Agreement. Village Confidential Information shall not include information that can be demonstrated: (i) to have been rightfully in the possession of the Consultant from a source other than the Village prior to the time of disclosure of said information to the Consultant under this Agreement ("**Time of Disclosure**"); (ii) to have been in the public domain prior to the Time of Disclosure; (iii) to have become part of the public domain after the Time of Disclosure by a publication or by any other means except an unauthorized act or omission or breach of this Agreement on the part of the Consultant or the Villages; or (iv) to have been supplied to the Consultant after the Time of Disclosure without restriction by a third party who is under no obligation to the Villages to maintain such information in confidence.

B. No Disclosure of Confidential Information by the Consultant. The Consultant acknowledges that it shall, in performing the Services for the Villages under this Agreement, have access to or be directly or indirectly exposed to Confidential Information. The Consultant shall hold confidential all Confidential Information and shall not disclose or use such Confidential Information without express prior written consent of the Villages. The Consultant shall use reasonable measures at least as strict as those the Consultant uses to protect its own confidential information. Such measures shall include, without limitation, requiring employees and subcontractors of the Consultant to execute a non-disclosure agreement before obtaining access to Confidential Information.

SECTION 6. WARRANTY; INDEMNIFICATION; INSURANCE.

A. Warranty of Services. The Consultant warrants that the Services shall be performed in accordance with the standards of professional practice, care, and diligence practiced by recognized consulting firms in performing services of a similar nature in existence at the Time of Performance. The warranty expressed shall be in addition to any other warranties expressed in this Agreement, or expressed or implied by law, which are hereby reserved unto the Villages.

B. Indemnification. The Consultant shall, without regard to the availability or unavailability of any insurance, either of the Villages or the Consultant, (i) as to Consultant's professional activities, indemnify and save harmless each of the Villages, and their respective officials, employees, agents, and attorneys against any and all lawsuits, claims, demands, damages, liabilities, losses, and expenses, including attorneys' fees and administrative expenses, ("**Claims**") that arise, or may be alleged to have arisen out of or in connection with the Consultant's negligent performance of, or failure to perform, the Services or any part thereof, and (ii) as to all other activities of Consultant, indemnify, save harmless, and defend each of the Villages, and its respective officials, employees, agents, and attorneys against any and all Claims that may arise, or may 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; provided that Consultant shall not be required to indemnify the Villages under provisions i or ii of this Section for injury or damage to the extent caused by the negligence of the Villages.

C. Insurance. Contemporaneous with the Consultant's execution of this Agreement, the Consultant shall provide certificates of insurance, and policies of insurance when requested by the Villages, all with coverages and limits acceptable to the Villages, and evidencing at least the minimum insurance coverages and limits as set forth in Exhibit C to this Agreement. For good cause shown, the Village Administrator of Morton Grove and Village Manager of Niles may extend the time for submission of the required certificates of insurance, and policies when requested, upon such terms, and with such assurances of complete and prompt performance, as the Village Administrator or Village Manager may impose in the exercise of their sole discretion. Such certificates and policies shall be in a form acceptable to

the Villages and from companies with a general rating of A minus, and a financial size category of Class X or better, in Best's Insurance Guide. Such insurance policies shall provide that no change, modification in, or cancellation of, any insurance shall become effective until the expiration of 30 days after written notice thereof shall have been given by the insurance company to the Villages. The Consultant shall, at all times during the term of this Agreement, maintain and keep in force, at the Consultant's expense, the insurance coverages provided above, including, without limitation, at all times while correcting any failure to meet the warranty requirements of Subsection 6A, Warranty of Services, of this Agreement.

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

SECTION 7. CONSULTANT AGREEMENT 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 (i) to create the relationship of principal and agent, employer and employee, partners, or joint venturers between the Villages and Consultant; or (ii) to create any relationship between the Villages and any subcontractor of the Consultant.

B. Conflict of Interest. The Consultant represents and certifies that, to the best of its knowledge, (1) no employee or agent of the Villages 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 (i) 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 (ii) 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.* The Consultant represents that the only persons, firms, or corporations interested in this Agreement as principals are those disclosed to the Villages prior to the execution of this Agreement, and that this Agreement is made without collusion with any other person, firm, or corporation. 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 Villages for all loss or damage that the Villages may suffer, and this Agreement shall, at the Villages' option, be null and void.

D. Sexual Harassment Policy. The Consultant certifies that it has a written sexual harassment policy in full compliance with Section 2-105(A)(4) of the Illinois Human Rights Act, 775 ILCS 5/2-105(A)(4).

E. Patriot Act Compliance. The Consultant represents and warrants to the Villages that neither it nor any of its principals, shareholders, members, partners, or affiliates, as applicable, is a person or entity named as a Specially Designated National and Blocked Person (as defined in Presidential Executive Order 13224) and that it is not acting, directly or indirectly,

for or on behalf of a Specially Designated National and Blocked Person. The Consultant further represents and warrants to the Villages that the Consultant and its principals, shareholders, members, partners, or affiliates, as applicable, are not, directly or indirectly, engaged in, and are not facilitating, the transactions contemplated by this Agreement on behalf of any person or entity named as a Specially Designated National and Blocked Person. The Consultant hereby agrees to defend, indemnify and hold harmless the Villages, their respective corporate authorities, and all of each Village's elected or appointed officials, officers, employees, agents, representatives, engineers, and attorneys, from and against any and all claims, damages, losses, risks, liabilities, and expenses (including reasonable attorneys' fees and costs) arising from or related to any breach of the representations and warranties in this subsection.

F. Termination. Notwithstanding any other provision hereof, the Villages 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 paid for Services actually performed and reimbursable expenses actually incurred, if any, prior to termination, not exceeding the value of the Services completed as determined as provided in Exhibit B.

G. Term. The Time of Performance of this Agreement, unless terminated pursuant to the terms of this Agreement, shall expire on the date the Village Administrator of Morton Grove and the Village Manager of Niles determines that all of the Services under this Agreement, including warranty services, are completed. A determination of completion shall not constitute a waiver of any rights or claims which the Villages may have or thereafter acquire with respect to any breach hereof by the Consultant or any right of indemnification of the Villages by the Consultant.

H. 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 Owner or Consultant with respect to this Contract 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 Contract shall be deemed to be inserted herein.

I. 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 Villages, then the Villages shall have the right, without prejudice to any other remedies provided by law or equity, to pursue any one or more of the following remedies:

1. **Cure by Consultant.** The Villages may require the Consultant, within a reasonable time, to complete or correct all or any part of the Services that are the subject of the Event of Default; and to take any or all other action necessary to bring the Consultant and the Services into compliance with this Agreement.

2. **Termination of Agreement by Villages.** The Villages may terminate this Agreement without liability for further payment of amounts due or to become due under this Agreement.

3. **Withholding of Payment by Villages.** The Villages may withhold from any payment, whether or not previously approved, or may recover from the Consultant, any and all costs, including attorneys' fees and administrative expenses, incurred by the Villages as the result of any Event of Default by the Consultant or as a result of actions taken by the Villages in response to any Event of Default by the Consultant.

J. **No Additional Obligation.** The Parties acknowledge and agree that the Villages are under no obligation under this Agreement or otherwise to negotiate or enter into any other or additional contracts or agreements with the Consultant, or with any vendor solicited or recommended by the Consultant.

K. **Village Boards' Authority.** Notwithstanding any provision of this Agreement, any negotiations or agreements with, or representations by the Consultant to vendors shall be subject to the approval of the Board of Trustees of each Village. The Village shall not be liable to any vendor or other third party for any agreements made by the Consultant, purportedly on behalf of the Villages, without the knowledge and approval of the Board of Trustees of the Villages.

L. **Mutual Cooperation.** The Villages agree to cooperate with the Consultant in the performance of the Services, including meeting with the Consultant and providing the Consultant with such non-confidential information that the Villages may have that may be relevant and helpful to the Consultant's performance of the Services. The Consultant agrees to cooperate with the Villages in the performance of the Services to complete the Work and with any other consultants engaged by the Villages.

M. **News Releases.** The Consultant shall not issue any news releases or other public statements regarding the Services without prior approval from the Village Administrator of Morton Grove and the Village Manager of Niles.

N. **Ownership.** Designs, drawings, plans, specifications, photos, reports, information, observations, calculations, notes, and any other documents, data, or information, in any form, prepared, collected, or received by the Consultant in connection with any or all of the Services to be performed under this Agreement ("***Documents***") shall be and remain the exclusive property of the Villages. At the Villages' request, or upon termination of this Agreement, the Consultant shall cause the Documents to be promptly delivered to the Villages. Any use for extensions of the project or for any other project without written verification or adaptation by the Consultant for the specific purpose intended will be at the Villages' sole risk and without liability or legal exposure to the Consultant.

O. **GIS Data.** Each of the Villages have developed digital map information through Geographic Information Systems Technology ("***GIS Data***") concerning the real property located

within their respective Village. If requested to do so by the Consultant, each Village agrees to supply the Consultant with a digital copy of the GIS Data, subject to the following conditions:

1. **Limited Access to GIS Data.** The GIS Data provided by a Village shall be limited to the scope of the Work that the Consultant is to provide for that Village;
2. **Purpose of GIS Data.** The Consultant shall limit its use of the GIS Data to its intended purpose of furtherance of the Work; and
3. **Agreement with Respect to GIS Data.** The Consultant does hereby acknowledge and agree that:
 - a. **Trade Secrets of the Villages.** The GIS Data constitutes proprietary materials and trade secrets of that Village and, shall remain the property of that Village;
 - b. **Consent of Villages Required.** The Consultant will not provide or make available the GIS Data in any form to anyone without the prior written consent of the Village Administrator of Morton Grove or the Village Manager of Niles, as applicable;
 - c. **Supply to Villages.** At the request of a Village, the Consultant shall supply that Village with any and all information that may have been developed by the Consultant based on the GIS Data;
 - d. **No Guarantee of Accuracy.** The Villages make no guarantee as to the accuracy, completeness, or suitability of the GIS Data in regard to the Consultant's intended use thereof; and
 - e. **Discontinuation of Use.** At such time as the Services have been completed to the satisfaction of the Villages, the Consultant shall cease its use of the GIS Data for any purpose whatsoever; and, upon request, an authorized representative of the applicable Village shall be afforded sufficient access to the Consultant's premises and data processing equipment to verify that all use of the GIS Data has been discontinued.

SECTION 8. GENERAL PROVISIONS.

- A. **Amendment.** No amendment or modification to this Agreement shall be effective unless and until such amendment or modification is in writing, properly approved in accordance with applicable procedures, and executed.
- B. **Assignment.** This Agreement may not be assigned by the Villages or by the Consultant without the prior written consent of the other party.
- C. **Binding Effect.** The terms of this Agreement shall bind and inure to the benefit of the Parties hereto and their agents, successors, and assigns.
- D. **Notice.** Any notice or communication required or permitted to be given under this Agreement shall be in writing and shall be delivered (i) personally, (ii) by a reputable overnight courier, (iii) by certified mail, return receipt requested, and deposited in the U.S. Mail, postage prepaid, (iv) by facsimile, or (v) by electronic internet mail ("e-mail"). Facsimile notices shall be deemed valid only to the extent that they are (a) actually received by the individual to whom addressed and (b) followed by delivery of actual notice in the manner described in either (i), (ii), or (iii) above within three business days thereafter at the appropriate address set forth

below. E-mail notices shall be deemed valid and received by the addressee thereof when delivered by e-mail and (a) opened by the recipient on a business day at the address set forth below, and (b) followed by delivery of actual notice in the manner described in either (i), (ii) or (iii) above within three business days thereafter at the appropriate address set forth below. 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. By notice complying with the requirements of this Subsection, each Party shall have the right to change the address or the addressee, or both, for all future notices and communications to such party, but no notice of a change of addressee or address shall be effective until actually received.

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

Village of Morton Grove
6101 Capulina Avenue
Morton Grove, Illinois 60053
Attention: Thomas Friel, Village Administrator Pro Tem
E-mail: tfriel@mortongroveil.org

And to: Village of Niles

Village of Niles
1000 Civic Center Drive
Niles, IL 60714
Attention: Village Manager
E-mail: scv@vniles.org

With a copy to:

Holland & Knight LLP
131 South Dearborn Street, 30th Floor
Chicago, Illinois 60603
Attention: Barbara A. Adams
E-mail: barbara.adams@hklaw.com

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

Stanley Consultants, Inc. ("**Consultant**")
8501 W. Higgins Road, Suite 730
Chicago, IL 60631-2801
Telephone: (773) 693-9624
Facsimile: (773) 693-7690
Email: thomaslarry@stanleygroup.com

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

F. Provisions Severable. If any term, covenant, condition, or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the

remainder of the provisions shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

G. Time. Time is of the essence in the performance of this Agreement.

H. Governing Laws. This Agreement shall be interpreted according to the internal laws, but not the conflict of laws rules, of the State of Illinois.

I. Entire Agreement. This Agreement constitutes the entire agreement between the parties and supersedes any and all previous or contemporaneous oral or written agreements and negotiations between either of the Villages and the Consultant with respect to the Proposal and the Services.

J. Waiver. No waiver of any provision of this Agreement shall be deemed to or constitute a waiver of any other provision of this Agreement (whether or not similar) nor shall any such waiver be deemed to or constitute a continuing waiver unless otherwise expressly provided in this Agreement.

K. Exhibit. Exhibits A, B, and C are attached hereto, and by this reference incorporated in and made a part of this Agreement. In the event of a conflict between the Exhibit and the text of this Agreement, the text of this Agreement shall control.

L. Rights Cumulative. Unless expressly provided to the contrary in this Agreement, each and every one of the rights, remedies, and benefits provided by this Agreement shall be cumulative and shall not be exclusive of any other such rights, remedies, and benefits allowed by law.

M. Counterpart Execution. This Agreement may be executed in several counterparts, each of which, when executed, shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

[SIGNATURES FOLLOW ON NEXT PAGE]

ATTEST:

By: Connie Travis
Village Clerk

~~VILLAGE OF MORTON GROVE~~

By: Ralph E. QB
Village Administrator ~~██████~~

ATTEST:

By: Marlene J. Victorini
Village Clerk

VILLAGE OF NILES

By: [Signature]
Village Manager

ATTEST:

By: Lawrence J. Thomas
Name: Lawrence Thomas
Title: w/w Manager

CONSULTANT

By: Bruce H. Worthington
Name: BRUCE H. WORTHINGTON
Its: VICE PRESIDENT

#36366812_v4

EXHIBIT A

SCOPE OF SERVICES

SCOPE OF SERVICES

The following prior studies have been prepared:

- Direct Evanston supply to Des Plaines, Lincolnwood, Niles, NWC, Park Ridge and the Northwest Suburban Municipal Joint Action Water Agency, prepared by MWH Americas, Inc., dated December 14, 2012.
- Direct Evanston supply to Glenview, Morton Grove, Niles, and Park Ridge prepared by MWH Americas, Inc., dated March 5, 2014.

Copies of these reports are available at

http://www.cityofevanston.org/utilities/water_division/Transmission%20Main%20Study%20Final%2012-14-12.pdf

and

http://www.cityofevanston.org/utilities/water_division/Transmission%20Study%203-5-14.pdf

The Consultant will provide engineering consulting services to review and update the studies as follows:

Base Scope of Services – Morton Grove and Niles Customer Set

This update will consider only the "Scenario 1" customer set and transmission main alignment from the 2014 study, see **Attachment 1**.

- Using the demand figures from the 2014 study, review and update the construction cost estimates to reflect year 2017 costs in order to more accurately reflect conditions when the project is to be let.
- Identify any particular construction components with significant potential for substantial cost increases.
- Prepare a Technical Memorandum and present same to Village staff and consultants.

Alternate 1 – Morton Grove, Niles, and Park Ridge Customer Set

This update will consider the "Scenario 2" customer set and transmission main alignment from the 2014 study, see **Attachment 2**.

- Using the demand figures from the 2014 study, review and update the construction cost estimates to reflect year 2017 costs in order to more accurately reflect conditions when the project is to be let.
- Identify any particular construction components with significant potential for substantial cost increases.
- Prepare a Technical Memorandum and present same to Village staff and consultants.

Alternate 2 – Morton Grove, Niles, and Lincolnwood Customer Set

This update will consider a hybrid of the "Scenario 1" customer set from the 2014 study plus Lincolnwood as presented in the 2012 study, see **Attachment 3**.

- Update the pipe sizing and construction cost allocations to reflect the Maximum Day demand estimates from the four communities.

- Using the demand figures from the 2012 and 2014 studies, review and update the construction cost estimates to reflect year 2017 costs in order to more accurately reflect conditions when the project is to be let.
- Identify any particular construction components with significant potential for substantial cost increases.
- Prepare a Technical Memorandum and present same to Village staff and consultants.

Alternate 3 – Morton Grove, Niles, Park Ridge, and Lincolnwood Customer Set

This update will consider a hybrid of the “Scenario 2” customer set from the 2014 study plus Lincolnwood as presented in the 2012 study, see **Attachment 4**.

- Update the pipe sizing and construction cost allocations to reflect the Maximum Day demand estimates from the four communities.
- Using the demand figures from the 2012 and 2014 studies, review and update the construction cost estimates to reflect year 2017 costs in order to more accurately reflect conditions when the project is to be let.
- Identify any particular construction components with significant potential for substantial cost increases.
- Prepare a Technical Memorandum and present same to Village staff and consultants.

KEY PROJECT STAFF

Mr. Larry Thomas, P.E., BSCE, will serve as the Project Manager for Consultant’s Services. He will coordinate with the team as outlined in Sections 2.D and 4.C of the Agreement and be assisted by other engineers and technical staff as needed to perform the Services.



TO: David Stoneback, City of Evanston

FROM: Paul Moyano, Lead Engineer

SUBJECT: Water Supply Transmission Main Study
Revised Customer Set

DATE: March 5, 2014

Introduction

The City of Evanston was approached by a revised set of potential wholesale water customers comprised of the Village of Niles, the Village of Morton Grove, the City of Park Ridge, and the Village of Glenview. The City asked MWH to update the Water Supply Transmission Main Report dated December 14, 2012 to develop the capital costs for the design and construction of the transmission main required to serve these customers. This memo serves as an Attachment to the 2012 Report and documents the development and allocation of the costs associated with the transmission main for four supply scenarios delivering water to the revised customer set. The analysis follows the same general methodology established in the 2012 Report and builds off of the alignments and costs developed previously.

Supply Scenarios

Four supply scenarios were defined by the City and originally proposed in a letter from Gewalt Hamilton dated November 4, 2013. These scenarios are summarized in Table 1. Scenarios 1 through 3 provide water to different sets of customers. Scenario 4 includes the same customer set as Scenario 3, but considers a northern alignment for the transmission main.

Table 1 – Supply Scenarios

Scenario	General Alignment	Customer Served			
		Niles	Morton Grove	Park Ridge	Glenview
1	South	X	X		
2	South	X	X	X	
3	South	X	X	X	X
4	North	X	X	X	X

Alignments

The alignments of the transmission and supply mains for this customer set followed the open-cut alignments studied and identified in the 2012 Report to the extent possible. Alignments for each Scenario are shown on Figures 1 through 4 at the end of this memo. The alignment for the supply main to Glenview north of Beckwith Road extended the alignment previously proposed along Harlem Avenue up north to Lehigh Avenue. The transmission main for Scenario 4 includes a segment along Oakton Street rather than following the original northern alignment to reduce the total overall pipeline length.

All alignments start at the City of Evanston Water Treatment Plant (WTP) and end at the following locations for each of the customers:

- Niles – Touhy Reservoir: Touhy Avenue west of Milwaukee Avenue
- Morton Grove – South Reservoir: Northwest corner of Caldwell and Oakton
- Park Ridge – Hinkley Reservoir: Southeast corner of Elm and Busse
- Glenview – Main Reservoir: Rugen Road, west of Lehigh Avenue

Demands

The transmission main capacity was based on meeting the 2030 demands for each Customer. Except for the Village of Glenview, demands are based on the Illinois Department of Natural Resources (IDNR) 2030 Lake Michigan Water Allocations. The projected allocations are multiplied by a peaking factor of 1.825 to estimate maximum day demands. The Village of Glenview provided an independent estimate of its maximum day demand based on a recent water system planning study. The Glenview estimate includes allowances for supply to the North Maine utilities system, and contractual obligations with Illinois American Water serving customers in Mt. Prospect and Prospect Heights. The demands are listed in Table 2.

Table 2 – Customer Demands

Customer	Average Day Demand	Maximum Day Demand
Niles	5.15	9.39
Park Ridge	4.96	9.05
Morton Grove	3.88	7.08
Glenview	12.60	27.00

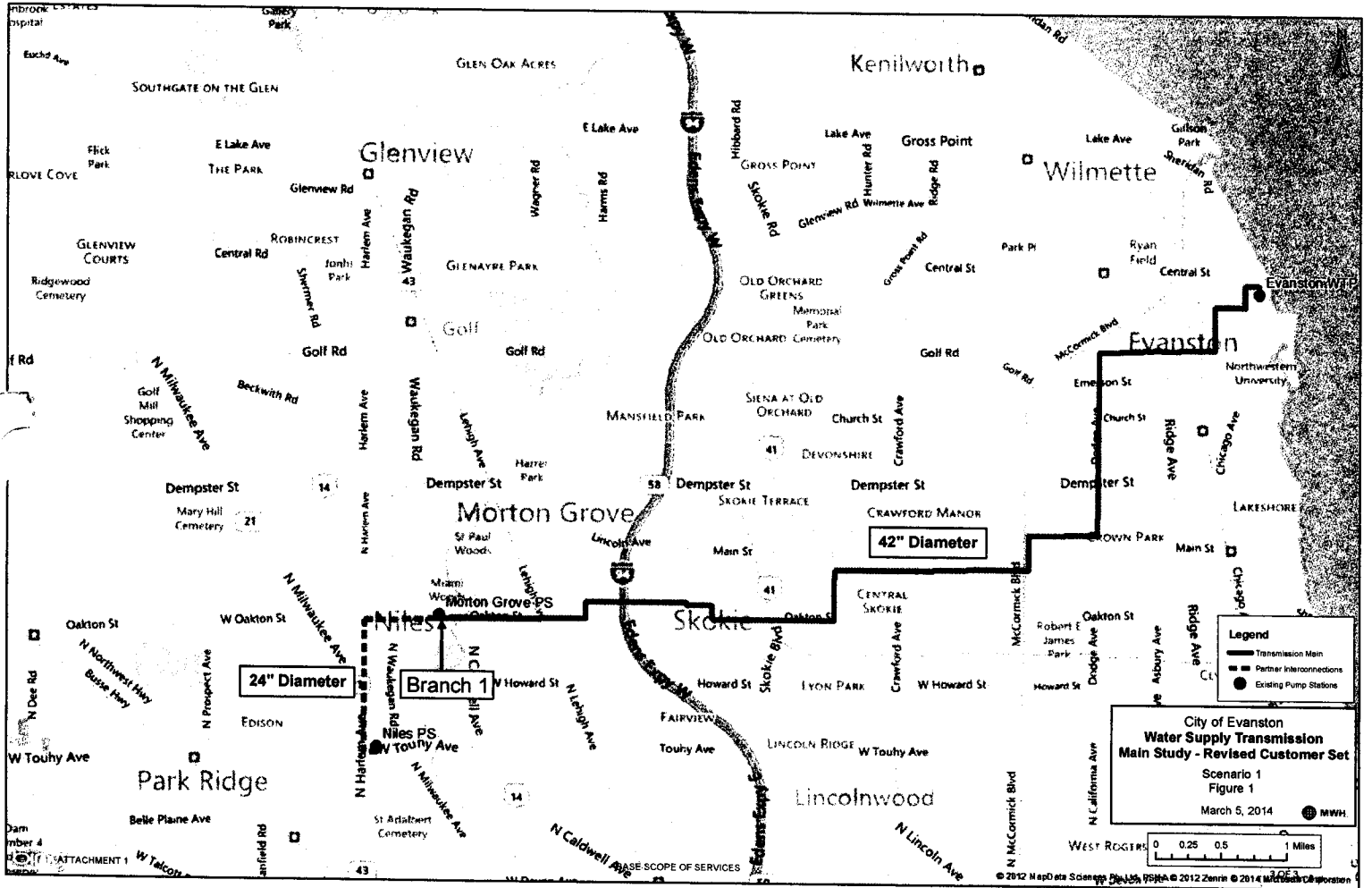


EXHIBIT B

AGREEMENT AMOUNT

For the Scope of Services described in this Agreement, Consultant will work on a time and material basis:

Base Scenario	24 hours	\$ 3,600
Alternate 1 Scenario	8 hours	\$ 1,140
Alternate 2 Scenario	12 hours	\$ 1,800
Alternate 3 Scenario	12 hours	\$ 1,800
Project Management & Project Meetings	6 hours	\$ 1,260
Internal QA/QC	<u>4 hours</u>	\$ 700
Expenses		<u>\$ 100</u>
Totals	66 hours	\$10,400

Services and fees will be on an as-requested basis as provided in Section 2.D of the Agreement. The total cost of all Services (including expenses) provided shall not exceed \$10,400.00 without the approval of the Villages pursuant to Sections 1.D and 8.A of the Agreement.

Reimbursable expenses, including items such as photos, postage, messenger services, printing, mileage, etc., will not exceed \$100 and will be billed as described in this Exhibit and limited by the estimate in this Exhibit.

Hourly rates by category and reimbursable expenses are listed on page 2 of this Exhibit.

Hourly rates for the personnel to be assigned:

Larry Thomas	\$210
Glenn Jensen	\$134
James Shannon	\$ 90



HOURLY FEES AND CHARGES
Fiscal Year 2015-2016

I. Office and Field Personnel, Professional Engineers/Land Surveyors Rates (per hour)

Regular Time:

Project Manager/Principal Officer	\$175.00 - \$300.00
Principal Engineer	\$155.00 - \$250.00
Senior Engineer	\$120.00 - \$210.00
Engineer	\$ 90.00 - \$160.00
3D Modeling/Visualization	\$ 95.00 - \$130.00
Professional Land Surveyor	\$ 80.00 - \$180.00
Engineering/Survey Technician	\$ 55.00 - \$160.00
Graphics Technician	\$ 50.00 - \$170.00
Construction Observation	\$ 65.00 - \$250.00
Clerical/Word Processing	\$ 40.00 - \$ 100.00

Overtime:

Client authorized services on Saturdays, Sundays, Holidays, and weekdays over normal working hours 1.3 x Regular Time

II. Reimbursable Costs:

Travel, Lodging, and Subsistence	Cost + 10%
Filing Fees, Permits, Title Company Charges, Government Review Fees	Cost + 10%
Reproductions	
Photocopying	\$0.13 each
Outside Services	Cost + 10%
Delivery Charges	Cost + 10%
Outside Consultants	Cost + 10%
ATV	\$35.00/day
Computer Charges (excluding operator time), phone & fax (long distance)	Cost + 10%

III. Compensation for purchases, items of expense, and other charges not scheduled above, incurred in connection with the performance of the work, shall be at cost plus 10%.

IV. Interest at the rate of 1½% per month will be charged on invoices not paid within 30 days.

V. Charges are subject to revision on or after March 26, 2016.

EXHIBIT C

INSURANCE COVERAGES

A. Worker's Compensation and Employer's Liability with limits not less than:

- (1) Worker's Compensation: Statutory;
- (2) Employer's Liability:
 - \$500,000 injury-per occurrence
 - \$500,000 disease-per employee
 - \$500,000 disease-policy limit

Such insurance shall evidence that coverage applies in the State of Illinois.

B. Comprehensive Motor Vehicle Liability with a combined single limit of liability for bodily injury and property damage of not less than \$1,000,000 for vehicles owned, non-owned, or rented.

All employees shall be included as insureds.

C. Comprehensive General Liability with coverage written on an "occurrence" basis and with limits no less than:

\$2,000,000 Bodily Injury and Property Damage Combined Single Limit

Coverage is to be written on an "occurrence" bases.

Coverages shall include:

- Broad Form Property Damage Endorsement
- Blanket Contractual Liability (must expressly cover the indemnity provisions of the Contract)

D. Professional Liability Insurance. With a limit of liability of not less than \$1,000,000 per claim and \$2,000,000 in the aggregate and covering Consultant against all sums that Consultant may be obligated to pay on account of any liability arising out of the Contract.

E. Umbrella Policy. The required coverages may be in any combination of primary, excess, and umbrella policies. Any excess or umbrella policy must provide excess coverage over underlying insurance on a following-form basis such that when any loss covered by the primary policy exceeds the limits under the primary policy, the excess or umbrella policy becomes effective to cover such loss.

F. Villages as Additional Insured. The Villages shall be named as an Additional Insured on all policies except for: Worker's Compensation and Professional Liability.

Each such additional Insured endorsement shall identify the Villages as follows: Village of Morton Grove, including its Board members and elected and appointed officials, its officers, employees, agents, attorneys, consultants, and representatives

and

Village of Niles, including its Board members and elected and appointed officials, its officers, employees, agents, attorneys, consultants, and representatives

G. Other Parties as Additional Insureds. In addition to Owner, the following parties shall be named as additional insured on the following policies:

<u>Additional Insured</u>	<u>Policy or Policies</u>
None	None

RESOLUTION 2015-49R

AMENDING RESOLUTION 2015-38R AUTHORIZING CONTRACTUAL AGREEMENT BETWEEN GEWALT HAMILTON & ASSOCIATES INC., THE VILLAGE OF NILES AND VILLAGE OF MORTON GROVE FOR ENGINEERING SERVICES ASSOCIATED WITH THE EVANSTON WATER SUPPLY PROJECT

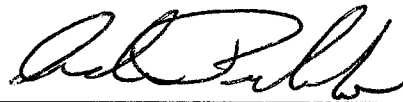
WHEREAS, Gewalt Hamilton & Associates (GHA) has been a part of the team of WRB, LLC assisting the Villages of Niles and Morton Grove in evaluating an alternative Lake Michigan water supply; and

WHEREAS, as the project progresses, there will be periodic need for GHA to provide specialized engineering consulting to respond to specific analyses related to the operational and other system needs in transitioning to a new provider.

NOW, THEREFORE, BE IT RESOLVED by the President and Board of Trustees of the Village of Niles, Cook County, Illinois, hereby authorize the President or his designee of the Village of Niles to execute an amended contractual agreement with Gewalt Hamilton & Associates Inc.

PASSED: This 25th day of August, 2015
YEAS: 6 Alpagianis, Jekot, LoVerde, Matyas, McCreery, Strzelecki
NAYS: 0
ABSENT: 0
ABSTAIN: 0

APPROVED by me this 25th day of August, 2015.



President of the Village of Niles
Cook County, Illinois

ATTESTED AND FILED in my office this 25th day of August, 2015, and published in pamphlet form as provided by law in the Village of Niles, Illinois.



Deputy Village Clerk

**VILLAGE OF MORTON GROVE
VILLAGE OF NILES
PROFESSIONAL SERVICES AGREEMENT
FOR JOINT WATER PURCHASE PROJECT**

THIS AGREEMENT is dated as of the 22nd day of June, 2015 ("**Agreement**") and is by, between and among the **VILLAGE OF MORTON GROVE**, an Illinois municipal corporation ("**Morton Grove**"), the **VILLAGE OF NILES** ("**Niles**") (Morton Grove and Niles collectively sometimes referred to as "**Villages**") and the Consultant identified in Subsection 1A below.

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

SECTION 1. CONSULTANT.

A. **Engagement of Consultant.** The Villages desire to jointly engage the Consultant identified below to provide all necessary professional consulting services and to perform the work in connection with the project identified below:

Gewalt Hamilton Associates, Inc. ("**Consultant**")
625 Forest Edge Drive
Vernon Hills, IL 60061
Telephone: (847) 478-9700
Email: pglenn@gha-engineers.com

B. **Project Description.** In connection with the Villages' consideration and analysis of alternate sources of supply of Lake Michigan water, and preparation and negotiation of contracts and other documents pertaining to an alternate source of supply, the Consultant will provide engineering and technical services to, and analysis and advice in support of, the Villages' efforts to procure an alternate source of supply.

C. **Representations of Consultant.** The Consultant has submitted to the Villages a description of the services to be provided by the Consultant, a copy of which is attached as Exhibit A to this Agreement ("**Services**"). The Consultant represents that it is financially solvent, has the necessary financial resources, and is sufficiently experienced and competent to perform and complete the professional consulting services set forth in Exhibit A in a manner consistent with the standards of professional practice by recognized consulting firms providing services of a similar nature.

D. **Agreement Amount.** The total amount billed by the Consultant for the Services under this Agreement shall not exceed Thirty Three Thousand Three Hundred Dollars (\$33,300.00), as outlined in Exhibit B, including reimbursable expenses as identified in Exhibit B, unless amended pursuant to Subsection 8A of this Agreement.

SECTION 2. SCOPE OF SERVICES.

A. **Retention of the Consultant.** The Villages retain the Consultant to perform, and the Consultant agrees to perform, the Services.

B. Services. The Consultant shall provide the Services pursuant to the terms and conditions of this Agreement.

C. Commencement; Time of Performance. The Consultant's provision of Services commenced on April 27, 2015 (the "**Commencement Date**"). The Consultant shall diligently and continuously prosecute the Services until the completion of the Work in accordance with deadlines established for particular tasks from time to time ("**Time of Performance**").

D. Assignments; Coordination; Reporting. Assignments and tasks will be assigned to the Consultant shall regularly report to William Balling of WRB, LLC, regarding the progress of the Services during the term of this Agreement. The Consultant will coordinate all work with William Balling of WRB, LLC.

SECTION 3. COMPENSATION AND METHOD OF PAYMENT.

A. Agreement Amount. The total amount billed for the Proposal during the term of this Agreement shall not exceed the amount identified as the Agreement Amount in Subsection 1D of this Agreement, without the prior express written authorization of the Villages.

B. Invoices and Payment. The Consultant shall be paid as provided in Exhibit B. The Consultant shall submit invoices to the Villages in an approved format for those portions of the Services performed and completed by the Consultant. The amount billed in any such invoice shall be based on the method of payment set forth in Exhibit B. Each Village shall be responsible for one-half of the amount billed for the Services and each Village shall pay to the Consultant the amount billed to it within 30 days after its receipt and approval of such an invoice.

C. Records. The Consultant shall maintain records showing actual time devoted and costs incurred, and shall permit the authorized representative of the Villages to inspect and audit all data and records of the Consultant for work done under the Agreement. The records shall be made available to the Villages at reasonable times during the Agreement period, and for three years after the termination of the Agreement.

D. Claim In Addition To Agreement Amount. If the Consultant wishes to make a claim for additional compensation as a result of action taken by the Villages, the Consultant shall provide written notice to the Villages of such claim within 7 days after occurrence of such action as provided by Subsection 8D of this Agreement, and no claim for additional compensation shall be valid unless made in accordance with this Subsection. Any changes in the Agreement Amount shall be valid only upon written amendment pursuant to Subsection 8A of this Agreement. Regardless of the decision of the Villages relative to a claim submitted by the Consultant, the Consultant shall proceed with all of the Services required to complete the Services under this Agreement as determined by the Villages without interruption.

E. Taxes, Benefits and Royalties. The Agreement Amount includes all applicable federal, state, and local 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 on, 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.

F. **Final Acceptance.** The Services, or, if the Services are to be performed in separate phases, each phase of the Services, shall be considered complete on the date of final written acceptance by each of the Villages of the Services or each phase of the Services, as the case may be, which acceptance shall not be unreasonably withheld or delayed.

SECTION 4. PERSONNEL; SUBCONTRACTORS.

A. **Key Project Personnel.** The Key Project Personnel identified in Exhibit A shall be primarily responsible for carrying out the Services on behalf of the Consultant. The Key Project Personnel shall not be changed without the Villages' prior written approval.

B. **Availability of Personnel.** The Consultant shall provide all personnel necessary to complete the Services including, without limitation, any Key Project Personnel identified in this Agreement. The Consultant shall notify the Village as soon as practicable prior to terminating the employment of, reassigning, or receiving notice of the resignation of, any Key Project Personnel. The Consultant shall have no claim for damages and shall not bill the Village for additional time and materials charges as the result of any portion of the Services which must be duplicated or redone due to such termination or for any delay or extension of the Time of Performance as a result of any such termination, reassigning, or resignation.

C. **Approval and Use of Subcontractors.** The Consultant shall perform the Services with its own personnel and under the management, supervision, and control of its own organization unless otherwise approved by the Villages in writing. All subcontractors and subcontracts used by the Consultant shall be acceptable to, and approved in advance by, the Villages. The Villages' approval of any subcontractor or subcontract shall not relieve the Consultant of full responsibility and liability for the provision, performance, and completion of the Services as required by the Agreement. All Services performed under any subcontract shall be subject to all of the provisions of this Agreement in the same manner as if performed by employees of the Consultant. For purposes of this Agreement, the term "Consultant" shall be deemed also to refer to all subcontractors of the Consultant, and every subcontract shall include a provision binding the subcontractor to all provisions of this Agreement.

D. **Removal of Personnel and Subcontractors.** If any personnel or subcontractor fails to perform the Services in a manner satisfactory to the Villages, the Consultant shall immediately upon notice from the Villages remove and replace such personnel or subcontractor. The Consultant shall have no claim for damages, for compensation in excess of the amount contained in this Agreement or for a delay or extension of the Time of Performance as a result of any such removal or replacement.

SECTION 5. CONFIDENTIAL INFORMATION.

A. **Confidential Information.** The term "***Confidential Information***" shall mean information in the possession or under the control of the Villages relating to the technical, business or corporate affairs of the Villages; property of the Villages; user information, including, without limitation, any information pertaining to usage of the Villages' computer systems, including and without limitation, any information obtained from server logs or other records of electronic or machine readable form; and the existence of, and terms and conditions of, this Agreement. Village Confidential Information shall not include information that can be demonstrated: (i) to have been rightfully in the possession of the Consultant from a source other than the Village prior to the time of disclosure of said information to the Consultant under this Agreement ("***Time of Disclosure***"); (ii) to have been in the public domain prior to the Time of Disclosure; (iii) to have become part of the public domain after the Time of Disclosure by a publication or by any other means except an unauthorized act or omission or breach of this

Agreement on the part of the Consultant or the Villages; or (iv) to have been supplied to the Consultant after the Time of Disclosure without restriction by a third party who is under no obligation to the Villages to maintain such information in confidence.

B. No Disclosure of Confidential Information by the Consultant. The Consultant acknowledges that it shall, in performing the Services for the Villages under this Agreement, have access to or be directly or indirectly exposed to Confidential Information. The Consultant shall hold confidential all Confidential Information and shall not disclose or use such Confidential Information without express prior written consent of the Villages. The Consultant shall use reasonable measures at least as strict as those the Consultant uses to protect its own confidential information. Such measures shall include, without limitation, requiring employees and subcontractors of the Consultant to execute a non-disclosure agreement before obtaining access to Confidential Information.

SECTION 6. WARRANTY; INDEMNIFICATION; INSURANCE.

A. Warranty of Services. The Consultant warrants that the Services shall be performed in accordance with the highest standards of professional practice, care, and diligence practiced by recognized consulting firms in performing services of a similar nature in existence at the Time of Performance. The warranty expressed shall be in addition to any other warranties expressed in this Agreement, or expressed or implied by law, which are hereby reserved unto the Villages.

B. Indemnification. The Consultant shall, without regard to the availability or unavailability of any insurance, either of the Villages or the Consultant, indemnify, save harmless, and defend each of the Villages, and its respective officials, employees, agents, and attorneys against any and all lawsuits, claims, demands, damages, liabilities, losses, and expenses, including attorneys' fees and administrative expenses, that arise, or may 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, whether or not due or claimed to be due in whole or in part to the active, passive, or concurrent negligence or fault of the Consultant, except to the extent caused by the sole negligence of the Villages.

C. Insurance. Contemporaneous with the Consultant's execution of this Agreement, the Consultant shall provide certificates and policies of insurance, all with coverages and limits acceptable to the Villages, and evidencing at least the minimum insurance coverages and limits as set forth in Exhibit C to this Agreement. For good cause shown, the Village Administrator of Morton Grove and Village Manager of Niles may extend the time for submission of the required policies of insurance upon such terms, and with such assurances of complete and prompt performance, as the Village Administrator or Village Manager may impose in the exercise of his sole discretion. Such certificates and policies shall be in a form acceptable to the Villages and from companies with a general rating of A minus, and a financial size category of Class X or better, in Best's Insurance Guide. Such insurance policies shall provide that no change, modification in, or cancellation of, any insurance shall become effective until the expiration of 30 days after written notice thereof shall have been given by the insurance company to the Villages. The Consultant shall, at all times during the term of this Agreement, maintain and keep in force, at the Consultant's expense, the insurance coverages provided above, including, without limitation, at all times while correcting any failure to meet the warranty requirements of Subsection 6A, Warranty of Services, of this Agreement.

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

SECTION 7. CONSULTANT AGREEMENT 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 (i) to create the relationship of principal and agent, employer and employee, partners, or joint venturers between the Villages and Consultant; or (ii) to create any relationship between the Villages and any subcontractor of the Consultant.

B. Conflict of Interest. The Consultant represents and certifies that, to the best of its knowledge, (1) no employee or agent of the Villages 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 (i) 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 (ii) 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.* The Consultant represents that the only persons, firms, or corporations interested in this Agreement as principals are those disclosed to the Villages prior to the execution of this Agreement, and that this Agreement is made without collusion with any other person, firm, or corporation. 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 Villages for all loss or damage that the Villages may suffer, and this Agreement shall, at the Villages' option, be null and void.

D. Sexual Harassment Policy. The Consultant certifies that it has a written sexual harassment policy in full compliance with Section 2-105(A)(4) of the Illinois Human Rights Act, 775 ILCS 5/2-105(A)(4).

E. Patriot Act Compliance. The Consultant represents and warrants to the Villages that neither it nor any of its principals, shareholders, members, partners, or affiliates, as applicable, is a person or entity named as a Specially Designated National and Blocked Person (as defined in Presidential Executive Order 13224) and that it is not acting, directly or indirectly, for or on behalf of a Specially Designated National and Blocked Person. The Consultant further represents and warrants to the Villages that the Consultant and its principals, shareholders, members, partners, or affiliates, as applicable, are not, directly or indirectly, engaged in, and are not facilitating, the transactions contemplated by this Agreement on behalf of any person or entity named as a Specially Designated National and Blocked Person. The Consultant hereby agrees to defend, indemnify and hold harmless the Villages, their respective corporate authorities, and all of each Village's elected or appointed officials, officers, employees, agents, representatives, engineers, and attorneys, from and against any and all claims, damages, losses, risks, liabilities, and expenses (including reasonable attorneys' fees and costs) arising from or related to any breach of the representations and warranties in this subsection.

F. Termination. Notwithstanding any other provision hereof, the Villages 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 paid for Services actually performed and reimbursable expenses actually incurred, if any, prior to termination, not exceeding the value of the Services completed as determined as provided in Exhibit B.

G. Term. The Time of Performance of this Agreement, unless terminated pursuant to the terms of this Agreement, shall expire on the date the Village Administrator of Morton Grove and the Village Manager of Niles determines that all of the Services under this Agreement, including warranty services, are completed. A determination of completion shall not constitute a waiver of any rights or claims which the Villages may have or thereafter acquire with respect to any breach hereof by the Consultant or any right of indemnification of the Villages by the Consultant.

H. 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 Owner or Consultant with respect to this Contract 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 Contract shall be deemed to be inserted herein.

I. 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 Villages, then the Villages shall have the right, without prejudice to any other remedies provided by law or equity, to pursue any one or more of the following remedies:

1. Cure by Consultant. The Villages may require the Consultant, within a reasonable time, to complete or correct all or any part of the Services that are the subject of the Event of Default; and to take any or all other action necessary to bring the Consultant and the Services into compliance with this Agreement.

2. Termination of Agreement by Villages. The Villages may terminate this Agreement without liability for further payment of amounts due or to become due under this Agreement.

3. Withholding of Payment by Villages. The Villages may withhold from any payment, whether or not previously approved, or may recover from the Consultant,

any and all costs, including attorneys' fees and administrative expenses, incurred by the Villages as the result of any Event of Default by the Consultant or as a result of actions taken by the Villages in response to any Event of Default by the Consultant.

J. **No Additional Obligation.** The Parties acknowledge and agree that the Villages are under no obligation under this Agreement or otherwise to negotiate or enter into any other or additional contracts or agreements with the Consultant, or with any vendor solicited or recommended by the Consultant.

K. **Village Boards' Authority.** Notwithstanding any provision of this Agreement, any negotiations or agreements with, or representations by the Consultant to vendors shall be subject to the approval of the Board of Trustees of each Village. The Village shall not be liable to any vendor or other third party for any agreements made by the Consultant, purportedly on behalf of the Villages, without the knowledge and approval of the Board of Trustees of the Villages.

L. **Mutual Cooperation.** The Villages agree to cooperate with the Consultant in the performance of the Services, including meeting with the Consultant and providing the Consultant with such non-confidential information that the Villages may have that may be relevant and helpful to the Consultant's performance of the Services. The Consultant agrees to cooperate with the Villages in the performance of the Services to complete the Work and with any other consultants engaged by the Villages.

M. **News Releases.** The Consultant shall not issue any news releases or other public statements regarding the Services without prior approval from the Village Administrator of Morton Grove and the Village Manager of Niles.

N. **Ownership.** Designs, drawings, plans, specifications, photos, reports, information, observations, calculations, notes, and any other documents, data, or information, in any form, prepared, collected, or received by the Consultant in connection with any or all of the Services to be performed under this Agreement ("**Documents**") shall be and remain the exclusive property of the Villages. At the Villages' request, or upon termination of this Agreement, the Consultant shall cause the Documents to be promptly delivered to the Villages.

O. **GIS Data.** Each of the Villages have developed digital map information through Geographic Information Systems Technology ("**GIS Data**") concerning the real property located within their respective Village. If requested to do so by the Consultant, each Village agrees to supply the Consultant with a digital copy of the GIS Data, subject to the following conditions:

1. **Limited Access to GIS Data.** The GIS Data provided by a Village shall be limited to the scope of the Work that the Consultant is to provide for that Village;

2. **Purpose of GIS Data.** The Consultant shall limit its use of the GIS Data to its intended purpose of furtherance of the Work; and

3. **Agreement with Respect to GIS Data.** The Consultant does hereby acknowledge and agree that:

a. **Trade Secrets of the Villages.** The GIS Data constitutes proprietary materials and trade secrets of that Village and, shall remain the property of that Village;

b. **Consent of Villages Required.** The Consultant will not provide or make available the GIS Data in any form to anyone without the prior written consent of the Village Administrator of Morton Grove or the Village Manager of Niles, as applicable;

c. **Supply to Villages.** At the request of a Village, the Consultant shall supply that Village with any and all information that may have been developed by the Consultant based on the GIS Data;

d. **No Guarantee of Accuracy.** The Villages make no guarantee as to the accuracy, completeness, or suitability of the GIS Data in regard to the Consultant's intended use thereof; and

e. **Discontinuation of Use.** At such time as the Services have been completed to the satisfaction of the Villages, the Consultant shall cease its use of the GIS Data for any purpose whatsoever; and, upon request, an authorized representative of the applicable Village shall be afforded sufficient access to the Consultant's premises and data processing equipment to verify that all use of the GIS Data has been discontinued.

SECTION 8. GENERAL PROVISIONS.

A. **Amendment.** No amendment or modification to this Agreement shall be effective unless and until such amendment or modification is in writing, properly approved in accordance with applicable procedures, and executed.

B. **Assignment.** This Agreement may not be assigned by the Villages or by the Consultant without the prior written consent of the other party.

C. **Binding Effect.** The terms of this Agreement shall bind and inure to the benefit of the Parties hereto and their agents, successors, and assigns.

D. **Notice.** Any notice or communication required or permitted to be given under this Agreement shall be in writing and shall be delivered (i) personally, (ii) by a reputable overnight courier, (iii) by certified mail, return receipt requested, and deposited in the U.S. Mail, postage prepaid, (iv) by facsimile, or (v) by electronic internet mail ("e-mail"). Facsimile notices shall be deemed valid only to the extent that they are (a) actually received by the individual to whom addressed and (b) followed by delivery of actual notice in the manner described in either (i), (ii), or (iii) above within three business days thereafter at the appropriate address set forth below. E-mail notices shall be deemed valid and received by the addressee thereof when delivered by e-mail and (a) opened by the recipient on a business day at the address set forth below, and (b) followed by delivery of actual notice in the manner described in either (i), (ii) or (iii) above within three business days thereafter at the appropriate address set forth below. 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. By notice complying with the requirements of this Subsection, each Party shall have the right to change the address or the addressee, or both, for all future notices and communications to such party, but no notice of a change of addressee or address shall be effective until actually received.

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

Village of Morton Grove
6101 Capulina Avenue
Morton Grove, Illinois 60053
Attention: Thomas Friel, Village Administrator Pro Tem
E-mail: tfriel@mortongroveil.org

And to: Village of Niles

Village of Niles
1000 Civic Center Drive
Niles, IL 60714
Attention: Village Manager
E-mail: scv@vniles.org

With a copy to:

Holland & Knight LLP
131 South Dearborn Street, 30th Floor
Chicago, Illinois 60603
Attention: Barbara A. Adams
E-mail: barbara.adams@hklaw.com

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

Gewalt Hamilton Associates, Inc. ("**Consultant**")
625 Forest Edge Drive
Vernon Hills, IL 60061
Telephone: (847) 478-9700
Facsimile: (847) 478-9701
Email: pglenn@gha-engineers.com

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

F. Provisions Severable. If any term, covenant, condition, or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

G. Time. Time is of the essence in the performance of this Agreement.

H. Governing Laws. This Agreement shall be interpreted according to the internal laws, but not the conflict of laws rules, of the State of Illinois.

I. Entire Agreement. This Agreement constitutes the entire agreement between the parties and supersedes any and all previous or contemporaneous oral or written agreements and negotiations between either of the Villages and the Consultant with respect to the Proposal and the Services.

J. Waiver. No waiver of any provision of this Agreement shall be deemed to or constitute a waiver of any other provision of this Agreement (whether or not similar) nor shall

any such waiver be deemed to or constitute a continuing waiver unless otherwise expressly provided in this Agreement.

K. **Exhibit.** Exhibits A, B, and C are attached hereto, and by this reference incorporated in and made a part of this Agreement. In the event of a conflict between the Exhibit and the text of this Agreement, the text of this Agreement shall control.

L. **Rights Cumulative.** Unless expressly provided to the contrary in this Agreement, each and every one of the rights, remedies, and benefits provided by this Agreement shall be cumulative and shall not be exclusive of any other such rights, remedies, and benefits allowed by law.

M. **Counterpart Execution.** This Agreement may be executed in several counterparts, each of which, when executed, shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

[SIGNATURES FOLLOW ON NEXT PAGE]

ATTEST:

By: Connie Travis
Connie Travis, Village Clerk

VILLAGE OF MORTON GROVE

By: Thomas J. Friel
Thomas J. Friel Village Administrator Pro Tem

ATTEST:

By: Martene J. Victorini
Village Clerk

VILLAGE OF NILES

By: [Signature]
Village Manager

ATTEST:

By: Bruce L. Shrade
Name: BRUCE L. SHRADE
Title: PRESIDENT

CONSULTANT

By: Patrick Glenn
Name: PATRICK GLENN
Its: DIRECTOR OF MUNICIPAL SVCS.

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EXHIBIT A

SCOPE OF SERVICES

BACKGROUND

Several studies have been prepared to date considering various permutations of suppliers and customer communities. In particular, the following studies have been prepared:

- Direct Evanston supply to Des Plaines, Lincolnwood, Niles, NWC, Park Ridge and the Northwest Suburban Municipal Joint Action Water Agency (prepared by MWH).
- Direct Evanston supply to Niles, Morton Grove, Glenview and Park Ridge (prepared by MWH).
- NWC supply to Niles (prepared by AECOM)
- NWC supply to Morton Grove (prepared by AECOM)
- Wilmette supply to Des Plaines via Glenview (prepared by Baxter & Woodman)
- Wilmette supply via Glenview to North Maine Utilities, Morton Grove, and Niles (prepared by Baxter & Woodman)
- Wilmette supply via Glenview to Morton Grove only (prepared by Baxter & Woodman)
- Wilmette Water Plant Capacity Expansion Evaluation (prepared by Black and Veatch)

SCOPE OF SERVICES

Consultant proposes to provide the following services under this agreement:

A. Meetings and Coordination

1. Meetings, phone conferences, and correspondence as required to coordinate Consultant's Services with the activities of the "small team" consisting of William Balling (WRB LLC), Barbara Adams (Holland and Knight), and staff from Niles and Morton Grove.
2. Meetings and presentations with the "large team" consisting of the small team plus elected officials of the communities and/or the public.
3. Meetings and coordination with the City of Evanston.
4. Meetings and coordination with the City of Park Ridge.
5. Meetings and coordination with the Village of Skokie
6. Meetings and coordination with the NWC, NSMJAWA, Lincolnwood, or other agencies not currently involved in the project.
7. Correspondence among the various teams and agencies.

(For fee estimate, assume 80 hours for meetings and correspondence)

B. Technical Review and Analysis

1. Technical review and analysis of engineering studies and reports prepared by others.
2. Engineering financial analysis of proposed improvements.
3. Coordinate engineering components of rate analysis

(For fee estimate, assume 40 hours)

C. Engineer Selection Assistance

1. Assist with selection of an engineering firm to prepare an updated estimate of construction cost.
2. Assist with preparing a Request for Proposals for engineering firms to prepare a Route Study and Preliminary Engineering Report.

(For fee estimate, assume 2 selections processes, 40 hours each)

KEY PROJECT STAFF

Mr. Patrick J. Glenn, P.E. will serve as the Project Manager for Consultant's Services. He will coordinate with the team as outlined in Section 2.D of the Agreement and be assisted by other engineers and technical staff as needed to perform the Services..

EXHIBIT B

AGREEMENT AMOUNT

For the Scope of Services described in this Agreement, Consultant will work on a time and material basis. The hours estimate in page 2 of this Exhibit indicates an estimated **\$33,300** fee based on the assumed hours.

Services and fees will be on an as-requested basis as provided in Section 2.D of the Agreement. The total cost of all Services provided shall not exceed \$33,300.00 without the approval of the Villages pursuant to Section 8.A of the Agreement.

Reimbursable expenses, including items such as photos, postage, messenger services, printing, mileage, etc., will be billed without mark-up and are expected not to exceed \$500.00.

Hours table on following page:

MORTON GROVE-NILES JOINT WATER PURCHASE

Manhour Estimate of Consultant Services

Work Item Description	Principal Engineer		Senior Engineer		Senior Env. Engineer		Prof. Engineer		Staff Engineer		Env. Consult.		GISP		Senior Tech		Tech Level II		Tech Level I		Clerical		Total Hours		Fee	
	Rate																									
A. Meetings and Coordination																										
A1 Meetings & Coordination			80																				80		\$	13,120.00
																									\$	13,120.00
B. Technical Review and Analysis																										
B1 Technical Review and Analysis			40																				40		\$	6,560.00
C. Engineer Selection Assistance																										
C1 Engineer Selection Assistance			80																				80		\$	13,120.00

*Six weeks of construction

Total Anticipated Labor = \$ 32,800.00
 Reimbursable Expenses: \$ 200.00
Total Fee: \$ 33,000.00

EXHIBIT C

INSURANCE COVERAGES

A. Worker's Compensation and Employer's Liability with limits not less than:

- (1) Worker's Compensation: Statutory;
- (2) Employer's Liability:
 - \$500,000 injury-per occurrence
 - \$500,000 disease-per employee
 - \$500,000 disease-policy limit

Such insurance shall evidence that coverage applies in the State of Illinois.

B. Comprehensive Motor Vehicle Liability with a combined single limit of liability for bodily injury and property damage of not less than \$1,000,000 for vehicles owned, non-owned, or rented.

All employees shall be included as insureds.

C. Comprehensive General Liability with coverage written on an "occurrence" basis and with limits no less than:

\$2,000,000 Bodily Injury and Property Damage Combined Single Limit

Coverage is to be written on an "occurrence" bases.

Coverages shall include:

- Broad Form Property Damage Endorsement
- Blanket Contractual Liability (must expressly cover the indemnity provisions of the Contract)

D. Professional Liability Insurance. With a limit of liability of not less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate and covering Consultant against all sums that Consultant may be obligated to pay on account of any liability arising out of the Contract.

E. Umbrella Policy. The required coverages may be in any combination of primary, excess, and umbrella policies. Any excess or umbrella policy must provide excess coverage over underlying insurance on a following-form basis such that when any loss covered by the primary policy exceeds the limits under the primary policy, the excess or umbrella policy becomes effective to cover such loss.

F. Villages as Additional Insured. The Villages shall be named as an Additional Insured on all policies except for: Worker's Compensation and Professional Liability.

Each such additional Insured endorsement shall identify the Villages as follows: Village of Morton Grove, including its Board members and elected and appointed officials, its officers, employees, agents, attorneys, consultants, and representatives

and

Village of Niles, including its Board members and elected and appointed officials, its officers, employees, agents, attorneys, consultants, and representatives

G. Other Parties as Additional Insureds. In addition to Owner, the following parties shall be named as additional insured on the following policies:

<u>Additional Insured</u>	<u>Policy or Policies</u>
None	None

**VILLAGE OF MORTON GROVE
VILLAGE OF NILES
PROFESSIONAL SERVICES AGREEMENT
FOR JOINT WATER PURCHASE PROJECT**

THIS AGREEMENT is dated as of the 10th day of **August 2015** (“**Agreement**”) and is by, between and among the **VILLAGE OF MORTON GROVE**, an Illinois municipal corporation (“**Morton Grove**”), the **VILLAGE OF NILES** (“**Niles**”) (Morton Grove and Niles collectively sometimes referred to as “**Villages**”) and the Consultant identified in Subsection 1A below.

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

SECTION 1. CONSULTANT.

A. Engagement of Consultant. The Villages desire to jointly engage the Consultant identified below to provide all necessary professional consulting services and to perform the work in connection with the project identified below:

Raftelis Financial Consultants, Inc. (“**Consultant**”)
3013 Main Street
Kansas City, MO 64108
Telephone: (816) 285-9020
Email: wstannard@raftelis.com

B. Project Description. In connection with the Villages’ consideration and analysis of alternate sources of supply of Lake Michigan water, and preparation and negotiation of contracts and other documents pertaining to an alternate source of supply, the Consultant will provide wholesale water rate consulting services to, and analysis and advice in support of, the Villages’ efforts to procure an alternate source of supply.

C. Representations of Consultant. The Consultant has submitted to the Villages a description of the services to be provided by the Consultant, a copy of which is attached as Exhibit A to this Agreement (“**Services**”). The Consultant represents that it is financially solvent, has the necessary financial resources, and is sufficiently experienced and competent to perform and complete the professional consulting services set forth in Exhibit A in a manner consistent with the standards of professional practice by recognized consulting firms providing services of a similar nature.

D. Agreement Amount. The total amount billed by the Consultant for the Services under this Agreement shall not exceed Sixty Eight Thousand Dollars (\$68,000.00) for all Phases of the Services and for Phase I of the Services shall be not more than \$38,800.00, as outlined in Exhibit B, which not-to-exceed amount includes reimbursable expenses as identified in Exhibit B, unless amended pursuant to Subsection 8A of this Agreement. Only Phase I of the Services are authorized upon execution of this Agreement, and Phase II Services may be authorized only if approved by both the Village Administrator of Morton Grove and the Village Manager of Niles.

SECTION 2. SCOPE OF SERVICES.

A. Retention of the Consultant. The Villages retain the Consultant to perform, and the Consultant agrees to perform, the Services.

B. **Services.** The Consultant shall provide the Services pursuant to the terms and conditions of this Agreement.

C. **Commencement; Time of Performance.** The Consultant's provision of Services commenced on July 31, 2015 (the "**Commencement Date**"). The Consultant shall diligently and continuously prosecute the Services until the completion of the Work in accordance with deadlines established for particular tasks from time to time ("**Time of Performance**").

D. **Assignments; Coordination; Reporting.** Assignments and tasks will be assigned to the Consultant shall regularly report to William Balling of WRB, LLC, regarding the progress of the Services during the term of this Agreement. The Consultant will coordinate all work with William Balling of WRB, LLC.

SECTION 3. COMPENSATION AND METHOD OF PAYMENT.

A. **Agreement Amount.** The total amount billed for the Proposal during the term of this Agreement shall not exceed the amount identified as the Agreement Amount in Subsection 1D of this Agreement, without the prior express written authorization of the Villages.

B. **Invoices and Payment.** The Consultant shall be paid as provided in Exhibit B. The Consultant shall submit invoices to the Villages in an approved format for those portions of the Services performed and completed by the Consultant. The amount billed in any such invoice shall be based on the method of payment set forth in Exhibit B. Each Village shall be responsible for one-half of the amount billed for the Services and each Village shall pay to the Consultant the amount billed to it within 30 days after its receipt and approval of such an invoice.

C. **Records.** The Consultant shall maintain records showing actual time devoted and costs incurred, and shall permit the authorized representative of the Villages to inspect and audit all data and records of the Consultant for work done under the Agreement. The records shall be made available to the Villages at reasonable times during the Agreement period, and for three years after the termination of the Agreement.

D. **Claim In Addition To Agreement Amount.** If the Consultant wishes to make a claim for additional compensation as a result of action taken by the Villages, the Consultant shall provide written notice to the Villages of such claim within 7 days after occurrence of such action as provided by Subsection 8D of this Agreement, and no claim for additional compensation shall be valid unless made in accordance with this Subsection. Any changes in the Agreement Amount shall be valid only upon written amendment pursuant to Subsection 8A of this Agreement. Regardless of the decision of the Villages relative to a claim submitted by the Consultant, the Consultant shall proceed with all of the Services required to complete the Services under this Agreement as determined by the Villages without interruption.

E. **Taxes, Benefits and Royalties.** The Agreement Amount includes all applicable federal, state, and local 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 on, 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.

F. **Final Acceptance.** The Services, or, if the Services are to be performed in separate phases, each phase of the Services, shall be considered complete on the date of final written acceptance by each of the Villages of the Services or each phase of the Services, as the case may be, which acceptance shall not be unreasonably withheld or delayed.

SECTION 4. PERSONNEL; SUBCONTRACTORS.

A. **Key Project Personnel.** The Key Project Personnel identified in Exhibit A shall be primarily responsible for carrying out the Services on behalf of the Consultant. The Key Project Personnel shall not be changed without the Villages' prior written approval.

B. **Availability of Personnel.** The Consultant shall provide all personnel necessary to complete the Services including, without limitation, any Key Project Personnel identified in this Agreement. The Consultant shall notify the Village as soon as practicable prior to terminating the employment of, reassigning, or receiving notice of the resignation of, any Key Project Personnel. The Consultant shall have no claim for damages and shall not bill the Village for additional time and materials charges as the result of any portion of the Services which must be duplicated or redone due to such termination or for any delay or extension of the Time of Performance as a result of any such termination, reassigning, or resignation.

C. **Approval and Use of Subcontractors.** The Consultant shall perform the Services with its own personnel and under the management, supervision, and control of its own organization unless otherwise approved by the Villages in writing. The use of the firm of Crawford Murphy & Tilly, Inc. as subcontractor is approved by the Villages. All subcontractors and subcontracts used by the Consultant shall be acceptable to, and approved in advance by, the Villages. The Villages' approval of any subcontractor or subcontract shall not relieve the Consultant of full responsibility and liability for the provision, performance, and completion of the Services as required by the Agreement. All Services performed under any subcontract shall be subject to all of the provisions of this Agreement in the same manner as if performed by employees of the Consultant. For purposes of this Agreement, the term "Consultant" shall be deemed also to refer to all subcontractors of the Consultant, and every subcontract shall include a provision binding the subcontractor to all provisions of this Agreement.

D. **Removal of Personnel and Subcontractors.** If any personnel or subcontractor fails to perform the Services in a manner satisfactory to the Villages, the Consultant shall immediately upon notice from the Villages remove and replace such personnel or subcontractor. The Consultant shall have no claim for damages, for compensation in excess of the amount contained in this Agreement or for a delay or extension of the Time of Performance as a result of any such removal or replacement.

SECTION 5. CONFIDENTIAL INFORMATION.

A. **Confidential Information.** The term "**Confidential Information**" shall mean information in the possession or under the control of the Villages relating to the technical, business or corporate affairs of the Villages; property of the Villages; user information, including, without limitation, any information pertaining to usage of the Villages' computer systems, including and without limitation, any information obtained from server logs or other records of electronic or machine readable form; and the existence of, and terms and conditions of, this Agreement. Village Confidential Information shall not include information that can be demonstrated: (i) to have been rightfully in the possession of the Consultant from a source other than the Village prior to the time of disclosure of said information to the Consultant under this Agreement ("**Time of Disclosure**"); (ii) to have been in the public domain prior to the Time of Disclosure; (iii) to have become part of the public domain after the Time of Disclosure by a

publication or by any other means except an unauthorized act or omission or breach of this Agreement on the part of the Consultant or the Villages; or (iv) to have been supplied to the Consultant after the Time of Disclosure without restriction by a third party who is under no obligation to the Villages to maintain such information in confidence.

B. No Disclosure of Confidential Information by the Consultant. The Consultant acknowledges that it shall, in performing the Services for the Villages under this Agreement, have access to or be directly or indirectly exposed to Confidential Information. The Consultant shall hold confidential all Confidential Information and shall not disclose or use such Confidential Information without express prior written consent of the Villages. The Consultant shall use reasonable measures at least as strict as those the Consultant uses to protect its own confidential information. Such measures shall include, without limitation, requiring employees and subcontractors of the Consultant to execute a non-disclosure agreement before obtaining access to Confidential Information.

SECTION 6. WARRANTY; INDEMNIFICATION; INSURANCE.

A. Warranty of Services. The Consultant warrants that the Services shall be performed in accordance with the highest standards of professional practice, care, and diligence practiced by recognized consulting firms in performing services of a similar nature in existence at the Time of Performance. The warranty expressed shall be in addition to any other warranties expressed in this Agreement, or expressed or implied by law, which are hereby reserved unto the Villages.

B. Indemnification. The Consultant shall, without regard to the availability or unavailability of any insurance, either of the Villages or the Consultant, indemnify, save harmless, and defend each of the Villages, and its respective officials, employees, agents, and attorneys against any and all lawsuits, claims, demands, damages, liabilities, losses, and expenses, including attorneys' fees and administrative expenses, that arise, or may be alleged to have arisen, out of or in connection with, the Consultant's negligent acts, errors, or omissions in the performance of, or failure to perform, the Services.

C. Insurance. Contemporaneous with the Consultant's execution of this Agreement, the Consultant shall provide certificates and policies of insurance, all with coverages and limits acceptable to the Villages, and evidencing at least the minimum insurance coverages and limits as set forth in Exhibit C to this Agreement. For good cause shown, the Village Administrator of Morton Grove and Village Manager of Niles may extend the time for submission of the required policies of insurance upon such terms, and with such assurances of complete and prompt performance, as the Village Administrator or Village Manager may impose in the exercise of his sole discretion. Such certificates and policies shall be in a form acceptable to the Villages and from companies with a general rating of A minus, and a financial size category of Class X or better, in Best's Insurance Guide. Such insurance policies shall provide that no change, modification in, or cancellation of, any insurance shall become effective until the expiration of 30 days after written notice thereof shall have been given by the insurance company to the Villages. The Consultant shall, at all times during the term of this Agreement, maintain and keep in force, at the Consultant's expense, the insurance coverages provided above, including, without limitation, at all times while correcting any failure to meet the warranty requirements of Subsection 6A, Warranty of Services, of this Agreement.

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

SECTION 7. CONSULTANT AGREEMENT 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 (i) to create the relationship of principal and agent, employer and employee, partners, or joint venturers between the Villages and Consultant; or (ii) to create any relationship between the Villages and any subcontractor of the Consultant.

B. Conflict of Interest. The Consultant represents and certifies that, to the best of its knowledge, (1) no employee or agent of the Villages 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 (i) 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 (ii) 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.* The Consultant represents that the only persons, firms, or corporations interested in this Agreement as principals are those disclosed to the Villages prior to the execution of this Agreement, and that this Agreement is made without collusion with any other person, firm, or corporation. 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 Villages for all loss or damage that the Villages may suffer, and this Agreement shall, at the Villages' option, be null and void.

D. Sexual Harassment Policy. The Consultant certifies that it has a written sexual harassment policy in full compliance with Section 2-105(A)(4) of the Illinois Human Rights Act, 775 ILCS 5/2-105(A)(4).

E. Patriot Act Compliance. The Consultant represents and warrants to the Villages that neither it nor any of its principals, shareholders, members, partners, or affiliates, as applicable, is a person or entity named as a Specially Designated National and Blocked Person (as defined in Presidential Executive Order 13224) and that it is not acting, directly or indirectly, for or on behalf of a Specially Designated National and Blocked Person. The Consultant further represents and warrants to the Villages that the Consultant and its principals, shareholders, members, partners, or affiliates, as applicable, are not, directly or indirectly, engaged in, and are not facilitating, the transactions contemplated by this Agreement on behalf of any person or entity named as a Specially Designated National and Blocked Person. The Consultant hereby agrees to defend, indemnify and hold harmless the Villages, their respective corporate authorities, and all of each Village's elected or appointed officials, officers, employees, agents, representatives, engineers, and attorneys, from and against any and all claims, damages, losses, risks, liabilities, and expenses (including reasonable attorneys' fees and costs) arising from or related to any breach of the representations and warranties in this subsection.

F. Termination. Notwithstanding any other provision hereof, the Villages 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 paid for Services actually performed and reimbursable expenses actually incurred, if any, prior to termination, not exceeding the value of the Services completed as determined as provided in Exhibit B.

G. Term. The Time of Performance of this Agreement, unless terminated pursuant to the terms of this Agreement, shall expire on the date the Village Administrator of Morton Grove and the Village Manager of Niles determines that all of the Services under this Agreement, including warranty services, are completed. A determination of completion shall not constitute a waiver of any rights or claims which the Villages may have or thereafter acquire with respect to any breach hereof by the Consultant or any right of indemnification of the Villages by the Consultant.

H. 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 Owner or Consultant with respect to this Contract 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 Contract shall be deemed to be inserted herein.

I. 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 Villages, then the Villages shall have the right, without prejudice to any other remedies provided by law or equity, to pursue any one or more of the following remedies:

1. **Cure by Consultant.** The Villages may require the Consultant, within a reasonable time, to complete or correct all or any part of the Services that are the subject of the Event of Default; and to take any or all other action necessary to bring the Consultant and the Services into compliance with this Agreement.

2. **Termination of Agreement by Villages.** The Villages may terminate this Agreement without liability for further payment of amounts due or to become due under this Agreement.

3. **Withholding of Payment by Villages.** The Villages may withhold from any payment, whether or not previously approved, or may recover from the Consultant,

any and all costs, including attorneys' fees and administrative expenses, incurred by the Villages as the result of any Event of Default by the Consultant or as a result of actions taken by the Villages in response to any Event of Default by the Consultant.

J. No Additional Obligation. The Parties acknowledge and agree that the Villages are under no obligation under this Agreement or otherwise to negotiate or enter into any other or additional contracts or agreements with the Consultant, or with any vendor solicited or recommended by the Consultant.

K. Village Boards' Authority. Notwithstanding any provision of this Agreement, any negotiations or agreements with, or representations by the Consultant to vendors shall be subject to the approval of the Board of Trustees of each Village. The Village shall not be liable to any vendor or other third party for any agreements made by the Consultant, purportedly on behalf of the Villages, without the knowledge and approval of the Board of Trustees of the Villages.

L. Mutual Cooperation. The Villages agree to cooperate with the Consultant in the performance of the Services, including meeting with the Consultant and providing the Consultant with such non-confidential information that the Villages may have that may be relevant and helpful to the Consultant's performance of the Services. The Consultant agrees to cooperate with the Villages in the performance of the Services to complete the Work and with any other consultants engaged by the Villages.

M. News Releases. The Consultant shall not issue any news releases or other public statements regarding the Services without prior approval from the Village Administrator of Morton Grove and the Village Manager of Niles.

N. Ownership. Designs, drawings, plans, specifications, photos, reports, information, observations, calculations, notes, and any other documents, data, or information, in any form, prepared, collected, or received by the Consultant in connection with any or all of the Services to be performed under this Agreement ("**Documents**") shall be and remain the exclusive property of the Villages. At the Villages' request, or upon termination of this Agreement, the Consultant shall cause the Documents to be promptly delivered to the Villages.

O. GIS Data. Each of the Villages have developed digital map information through Geographic Information Systems Technology ("**GIS Data**") concerning the real property located within their respective Village. If requested to do so by the Consultant, each Village agrees to supply the Consultant with a digital copy of the GIS Data, subject to the following conditions:

1. **Limited Access to GIS Data.** The GIS Data provided by a Village shall be limited to the scope of the Work that the Consultant is to provide for that Village;

2. **Purpose of GIS Data.** The Consultant shall limit its use of the GIS Data to its intended purpose of furtherance of the Work; and

3. **Agreement with Respect to GIS Data.** The Consultant does hereby acknowledge and agree that:

a. **Trade Secrets of the Villages.** The GIS Data constitutes proprietary materials and trade secrets of that Village and, shall remain the property of that Village;

b. **Consent of Villages Required.** The Consultant will not provide or make available the GIS Data in any form to anyone without the prior written consent of the Village Administrator of Morton Grove or the Village Manager of Niles, as applicable;

c. **Supply to Villages.** At the request of a Village, the Consultant shall supply that Village with any and all information that may have been developed by the Consultant based on the GIS Data;

d. **No Guarantee of Accuracy.** The Villages make no guarantee as to the accuracy, completeness, or suitability of the GIS Data in regard to the Consultant's intended use thereof; and

e. **Discontinuation of Use.** At such time as the Services have been completed to the satisfaction of the Villages, the Consultant shall cease its use of the GIS Data for any purpose whatsoever; and, upon request, an authorized representative of the applicable Village shall be afforded sufficient access to the Consultant's premises and data processing equipment to verify that all use of the GIS Data has been discontinued.

SECTION 8. GENERAL PROVISIONS.

A. **Amendment.** No amendment or modification to this Agreement shall be effective unless and until such amendment or modification is in writing, properly approved in accordance with applicable procedures, and executed.

B. **Assignment.** This Agreement may not be assigned by the Villages or by the Consultant without the prior written consent of the other party.

C. **Binding Effect.** The terms of this Agreement shall bind and inure to the benefit of the Parties hereto and their agents, successors, and assigns.

D. **Notice.** Any notice or communication required or permitted to be given under this Agreement shall be in writing and shall be delivered (i) personally, (ii) by a reputable overnight courier, (iii) by certified mail, return receipt requested, and deposited in the U.S. Mail, postage prepaid, (iv) by facsimile, or (v) by electronic internet mail ("e-mail"). Facsimile notices shall be deemed valid only to the extent that they are (a) actually received by the individual to whom addressed and (b) followed by delivery of actual notice in the manner described in either (i), (ii), or (iii) above within three business days thereafter at the appropriate address set forth below. E-mail notices shall be deemed valid and received by the addressee thereof when delivered by e-mail and (a) opened by the recipient on a business day at the address set forth below, and (b) followed by delivery of actual notice in the manner described in either (i), (ii) or (iii) above within three business days thereafter at the appropriate address set forth below. 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. By notice complying with the requirements of this Subsection, each Party shall have the right to change the address or the addressee, or both, for all future notices and communications to such party, but no notice of a change of addressee or address shall be effective until actually received.

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

Village of Morton Grove
6101 Capulina Avenue
Morton Grove, Illinois 60053
Attention: Thomas Friel, Village Administrator Pro Tem
E-mail: tfriel@mortongroveil.org

And to: Village of Niles

Village of Niles
1000 Civic Center Drive
Niles, IL 60714
Attention: Village Manager
E-mail: scv@vniles.org

With a copy to:

Holland & Knight LLP
131 South Dearborn Street, 30th Floor
Chicago, Illinois 60603
Attention: Barbara A. Adams
E-mail: barbara.adams@hklaw.com

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

Raftelis Financial Consultants, Inc. ("**Consultant**")
3013 Main Street
Kansas City, MO 64108
Telephone: (816) 285-9020
Facsimile: (816) 285-9021
Attention: William G. Stannard
Email: wstannard@raftelis.com

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

F. Provisions Severable. If any term, covenant, condition, or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

G. Time. Time is of the essence in the performance of this Agreement.

H. Governing Laws. This Agreement shall be interpreted according to the internal laws, but not the conflict of laws rules, of the State of Illinois.

I. Entire Agreement. This Agreement constitutes the entire agreement between the parties and supersedes any and all previous or contemporaneous oral or written agreements and negotiations between either of the Villages and the Consultant with respect to the Proposal and the Services.

J. **Waiver.** No waiver of any provision of this Agreement shall be deemed to or constitute a waiver of any other provision of this Agreement (whether or not similar) nor shall any such waiver be deemed to or constitute a continuing waiver unless otherwise expressly provided in this Agreement.

K. **Exhibit.** Exhibits A, B, and C are attached hereto, and by this reference incorporated in and made a part of this Agreement. In the event of a conflict between the Exhibit and the text of this Agreement, the text of this Agreement shall control.

L. **Rights Cumulative.** Unless expressly provided to the contrary in this Agreement, each and every one of the rights, remedies, and benefits provided by this Agreement shall be cumulative and shall not be exclusive of any other such rights, remedies, and benefits allowed by law.

M. **Counterpart Execution.** This Agreement may be executed in several counterparts, each of which, when executed, shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

[SIGNATURES FOLLOW ON NEXT PAGE]

ATTEST:

By: Connie Travis
Village Clerk

VILLAGE OF MORTON GROVE

By: [Signature]
Village Administrator Pro-Tem

ATTEST:

By: Madelen J. Vetrovec
Village Clerk

VILLAGE OF NILES

By: [Signature]
Village Manager

ATTEST:

By: [Signature]
Name: Thomas A. Beckley
Title: Senior Manager

CONSULTANT

By: [Signature]
Name: William G. Stannard
Title: PRESIDENT, CEO

#36166759_v2

EXHIBIT A

SCOPE OF SERVICES

SCOPE OF SERVICES

Consultant proposes to provide the Services for "Phase I—Initial Review" as described on the following pages.

Any Services that may be authorized as part of "Phase II—Follow On Analyses and Negotiations" shall be as agreed pursuant to Section 1.D and Section 8.A of the Agreement.

KEY PROJECT STAFF

Mr. William Stannard, P.E., will serve as the Project Director and Mr. Tom Beckley will serve as the day-to-day Project Manager for Consultant's Services. They will coordinate with the team as outlined in Sections 2.D and 4.C of the Agreement and be assisted by other engineers and technical staff as needed to perform the Services.

SCOPE OF WORK

PHASE I - INITIAL REVIEW

TASK 1 - REVIEW WATER SUPPLIER'S PROPOSED RATES

The Project Team would review the proposed rates from the potential Water Supplier. The materials reviewed will include rate reports, spreadsheets, audits, budgets, and other materials relevant to the rate setting process. Although the Villages did not specify the water supplier they

are in negotiations with, it is our understanding that the Water Supplier is the City of Evanston (the City), and if that is accurate it is important to note that RFC is familiar with the City's facilities and assets as well as their recent rate study prepared by CDM Smith, so the Villages would benefit from this prior experience and knowledge developed during previous engagements and efforts by RFC.

This review will include review and analysis of the Water Suppli-

er's existing assets and facilities to ensure they are appropriately valued and allocated among the supplier's customer classes; review and analysis of the supplier's operating and maintenance expense to ensure they are appropriate in magnitude as well as appropriately allocated; and review other assumptions used by the water supplier in determining the Villages' proposed rates. In particular other assumptions we believe would need to be closely examined and considered would include the proposed rate

of return, proposed weighting of assets to determine true value (i.e., weighting of original cost vs. replacement cost), and proposed allocation of total system capacity among the water supplier, their other wholesale customers, and the Villages. The Project Team includes both financial and engineering professionals that will be involved in this review to provide the in depth knowledge and experience needed to consider all aspects that affect the proposed rate to the Villages from the Water Supplier.

Included in this review will be a review of any spreadsheets and formulas used by the Water Supplier in determining the proposed rates for the Villages. The Project Team has extensive experience developing and reviewing similar spreadsheets and formulas for rate studies, and in particular rates studies with wholesale rate calculation.

We expect that this Task would include on-site inspections of the Water Supplier's facilities as well as meetings with the Water Supplier's staff and if possible, the Water Supplier's rate consultants.

TASK 2 - PREPARE REPORT OF FINDINGS

Based on our review of the Water Supplier's proposed rates and all the supporting information, as described in Task 1, we will prepare a written report outlining our findings as they relate to

the Water Supplier's proposed rates and in particular identify any items we believe may need to be considered carefully during negotiations to protect the interests of the Villages. We will provide the Villages with a draft of this report for their review and meet with staff from the Villages to review our findings and recommendations in detail. Based on comments and suggestions from Staff we would revise and update the report as necessary over the course of the engagement to reflect additional information or any changes that may occur during negotiations with the Water Supplier.

TASK 3 - ATTEND MEETINGS AND CONFERENCE CALLS

Throughout the course of the engagement the Project Team will be available to attend meetings and participate in conference calls with staff from the Villages as well as any other meetings that may be necessary with the Water Supplier and their advisors and consultants. For conference calls RFC has made extensive use of web based collaboration tools that can be used for ad hoc meetings as well as remote meetings and eliminating the time and expense of travel. This Phase includes three meetings in the Villages to assess the Water Supplier's assets and facilities, meet with the Water Supplier and/or their consultants, and meet with Staff of the Villages as well

as conference calls supported by internet based collaboration tools that would be supplied by the Project Team.

PHASE II - FOLLOW-ON ANALYSES AND NEGOTIATIONS

Based on the findings and results of Phase I, the Project Team will work with the Villages to identify additional analyses that may be necessary to support negotiations with the Water Supplier. The Villages will be provided with estimated scope and fees for any such additional work before it is undertaken.

EXHIBIT B
AGREEMENT AMOUNT

For the Scope of Services described in this Agreement, Consultant will work on a time and material basis. The hours estimate in page 2 of this Exhibit indicates a fee of \$33,980 based on the assumed hours for Phase I Services.

Services and fees will be on an as-requested basis as provided in Section 2.D of the Agreement. The total cost of all Services (including expenses) provided shall not exceed \$38,800.00 without the approval of the Villages pursuant to Sections 1.D and 8.A of the Agreement.

Reimbursable expenses, including items such as photos, postage, messenger services, printing, mileage, etc., will not exceed \$4,820 and will be billed without mark-up and limited by the estimate on page 2 of this Exhibit. Any expense or groups of expenses (such as a trip to meet in person with the Villages) shall not to exceed \$500.00 without prior approval of the Village Administrator of Morton Grove and the Village Manger of Niles.

Cost Estimate table on page 2 of this Exhibit and hourly rates are on page 3 of this Exhibit.

COST ESTIMATE

Our estimated cost for the proposed scope of work is **\$38,800** as shown in the table below.

	Hours Requirements					
	Raftelis Financial Consultants, Inc.			Crawford, Murphy & Tilly, Inc.		
	William Stannard, PE, Project Director	Thomas Beckley, Project Manager	Liz Oles, Associate	Theresa O'Grady, PE, Senior Engineer	Kelly Borman, PE, Engineer	Administrative Support
Phase I - Initial Review and Report						
1 Review Water Supplier's Proposed Rates	16	16	24	12	12	2
2 Prepare Report of Findings	4	8	12	4	8	2
3 Attend Meetings and Conference Calls	12	12	12	8		2
Phase II - Follow-On Analyses and Negotiations						
			To Be Determined			
Total estimated hours	32	36	48	24	20	6
Hourly rates	\$ 350	\$ 245	\$ 140	\$ 180	\$ 125	\$ 70
Consultant Fees	\$ 11,200	\$ 8,820	\$ 6,720	\$ 4,320	\$ 2,500	\$ 420
					Estimated Fees	\$ 33,960
					Technology and Communication Charges	\$ 4,220
					Other Expenses	\$ 600
					Total Estimated Fees and Expenses	\$ 38,800

HOURLY BILLING RATES

RFC has more than 50 professionals who are dedicated to providing financial and management consulting services to municipal utilities throughout the United States and Canada. We expect any additional work the Villages may require could be completed by the staff included in this proposal, but all of our staff will be at the Villages' disposal as needed. Below, we have included a list of RFC's full staff's hourly billing rates.

Position	Hourly Billing Rate**
Chair	\$400
Chief Executive Officer/President	\$350
Chief Operating Officer	\$305
Executive Vice President	\$300
Vice President/Principal Consultant	\$270
Director of Government Services	\$270
Director of Management Consulting	\$260
Senior Manager	\$240
Director of Florida Operations	\$205
Manager	\$220
Director of Data Services	\$220
Senior Consultant	\$190
Consultant	\$170
Associate	\$140
Analyst	\$100
Administration	\$70
Technology/Communications Charge*	\$10

*Technology/Communications Charge – this is an hourly fee charged monthly for each hour worked on the project to recover telephone, facsimile, computer, postage/overnight delivery, conference calls, electronic/computer webinars, photocopies, etc.

**For services related to the preparation for and participation in deposition and trial/hearing, the standard billing rates listed above will be increased by 50%.

EXHIBIT C

INSURANCE COVERAGES

A. Worker's Compensation and Employer's Liability with limits not less than:

- (1) Worker's Compensation: Statutory;
- (2) Employer's Liability:
 - \$500,000 injury-per occurrence
 - \$500,000 disease-per employee
 - \$500,000 disease-policy limit

Such insurance shall evidence that coverage applies in the State of Illinois.

B. Comprehensive Motor Vehicle Liability with a combined single limit of liability for bodily injury and property damage of not less than \$1,000,000 for vehicles owned, non-owned, or rented.

All employees shall be included as insureds.

C. Comprehensive General Liability with coverage written on an "occurrence" basis and with limits no less than:

\$2,000,000 Bodily Injury and Property Damage Combined Single Limit

Coverage is to be written on an "occurrence" bases.

Coverages shall include:

- Broad Form Property Damage Endorsement
- Blanket Contractual Liability (must expressly cover the indemnity provisions of the Contract)

D. Professional Liability Insurance. With a limit of liability of not less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate and covering Consultant against all sums that Consultant may be obligated to pay on account of any liability arising out of the Contract.

E. Umbrella Policy. The required coverages may be in any combination of primary, excess, and umbrella policies. Any excess or umbrella policy must provide excess coverage over underlying insurance on a following-form basis such that when any loss covered by the primary policy exceeds the limits under the primary policy, the excess or umbrella policy becomes effective to cover such loss.

F. Villages as Additional Insured. The Villages shall be named as an Additional Insured on all policies except for: Worker's Compensation and Professional Liability.

Each such additional Insured endorsement shall identify the Villages as follows: Village of Morton Grove, including its Board members and elected and appointed officials, its officers, employees, agents, attorneys, consultants, and representatives

and

Village of Niles, including its Board members and elected and appointed officials, its officers, employees, agents, attorneys, consultants, and representatives

G. Other Parties as Additional Insureds. In addition to Owner, the following parties shall be named as additional insured on the following policies:

<u>Additional Insured</u>	<u>Policy or Policies</u>
None	None

RESOLUTION 2015-50R

RESOLUTION RATIFYING AN AGREEMENT FOR THE JOINT WATER PURCHASE PROJECT WITH RAFTELIS FINANCIAL CONSULTANTS, INC. TO PROVIDE PROFESSIONAL SERVICES TO THE VILLAGES OF NILES AND MORTON GROVE

WHEREAS, the Village of Niles and the Village of Morton Grove desire to jointly engage with Raftelis Financial Consultants, Inc. to provide all necessary professional consulting services; and

WHEREAS, in connection with the Villages' consideration and analysis of alternate sources of supply of Lake Michigan water, and preparation and negotiation of contracts and other documents pertaining to an alternate source of supply, the Consultant will provide wholesale water rate consulting services to, and analysis and advice in support of, the Villages' efforts to procure an alternate source of supply.

NOW, THEREFORE, BE IT RESOLVED by the President and Board of Trustees of the Village of Niles, Cook County, Illinois, hereby authorize the President or his designee of the Village of Niles to execute an agreement with Raftelis Financial Consultants, Inc.

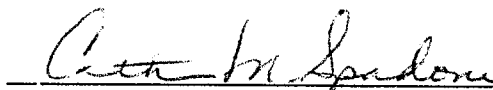
PASSED: This 25th day of August, 2015
YEAS: 6 Alpogianis, Jekot, LoVerde, Matyas, McCreery, Strzelecki
NAYS: 0
ABSENT: 0
ABSTAIN: 0

APPROVED by me this 25th day of August, 2015.



President of the Village of Niles
Cook County, Illinois

ATTESTED AND FILED in my office this 25th day of August, 2015, and published in pamphlet form as provided by law in the Village of Niles, Illinois.



Deputy Village Clerk