

RESOLUTION NO. 17-13

A RESOLUTION AUTHORIZING A PROFESSIONAL SERVICES AGREEMENT BID WAIVER AND APPROVAL AND EXECUTION OF A PROFESSIONAL SERVICES AGREEMENT FOR INDEPENDENT ENGINEERING SERVICES REVIEW FOR THE WATER DELIVERY SYSTEM BY HNTB ENGINEERS

WHEREAS, the Morton Grove Niles Water Commission, located in Cook County, Illinois ("MGNWC"), has been established to operate a public water supply system (the "System") by an intergovernmental agreement adopted by the Village of Morton Grove and the Village of Niles pursuant to 65 ILCS 5/11-135-1 *et seq.*, and the MGNWC further operates in accordance with the provisions of Article VII, Section 6 of the Illinois Constitution and the Local Government Debt Reform Act, 30 ILCS 350/1 *et seq.* (collectively the "Act"); and

WHEREAS, on September 14, 2017, Morton Grove-Niles Water Commission (MGNWC), issued a Request for Proposals, entitled "RFP Independent Engineering Design Review for Water Delivery System" (the "MGNWC RFP"), seeking bids for an independent review of the design engineering services provided by Stanley Consultants, Inc. including its preparation of project development reports, cost estimates for the design, finance and construction of water transmission lines, pumping and storage, and other related water delivery and receiving infrastructure that will extend from the City of Evanston's ("Evanston") point of delivery near the intersection of Emerson Street and McCormick Boulevard ("the Project"), and to make recommendations if necessary to modify the design and programming of the Project (the "Services"); and

WHEREAS, HNTB Corporation ("Consultant") submitted a response to the MGNWC RFP, dated September 20, 2017, to perform the Services relative to the Project, and MGNWC and the Consultant further negotiated and refined the Services that are to be performed, and negotiated the compensation for these Services (the "Agreement"); and

WHEREAS the Governing Authority of the MGNWC desire to approve the Agreement in accordance with the terms set forth in Exhibit "A" and further agree to engage HNTB subject to the Village of Niles ("Niles") and Village of Morton Grove ("Morton Grove") each adopting a resolution approving the Agreement and making an appropriation commitment on behalf of Morton Grove and Niles as set forth in this Resolution.

WHEREAS, the Consultant agreed to perform the Services in accordance with the terms of the Agreement; and

WHEREAS, the Local Government Professional Services Selection Act (50 ILCS 510/1 *et seq.*) (the "Act") requires the Agency to engage in a competitive request for qualification process in order to procure architectural, engineering or land surveying services, unless: (a) the Agency already has an existing relationship with the architectural, engineering or land surveying

firm; (b) an emergency situation exists and the expeditious selection of a firm is required; or (c) the Agency utilizes the waiver of competition provision set forth at Section 8 of the Act; and

WHEREAS, the Governing Authority desires to waive the competitive request for qualification process in accordance with Section 8 of the Act to hire HNTB to perform the Services on behalf of the Governing Authority in accordance with the terms of the Agreement. The Governing Authority finds that it can use the Section 8 waiver available under the Act because the municipal partners have an existing relationship with HNTB; and

WHEREAS, the Governing Authority has the authority to enter into the Agreement pursuant to the powers granted it by Article VII, Section 10(a) of the Illinois Constitution of 1970 and the Local Government Professional Services Selection Act (50 ILCS 510/1 *et seq.*), and finds that entering into this Agreement is in the best interests of the Agency and its members.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING AUTHORITY OF THE MORTON GROVE NILES WATER COMMISSION, AS FOLLOWS:

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

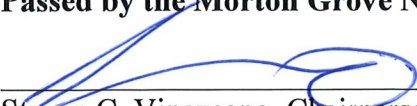
SECTION 2: BID WAIVER. The Governing Authority approves of the waiver of the competitive request for qualification process in accordance with Section 8 (waiver of competition) of the Local Government Professional Services Selection Act (50 ILCS 510/8) in order to hire HNTB, Inc. to perform certain professional engineering consulting services on behalf of the Commission relative to the System.

SECTION 3: AGREEMENT. The Governing Authority authorizes the approval of the economic terms and the attached form of an agreement entitled "RFP Independent Engineering Design Review for Water Delivery System" (the "MGNWC RFP") (the "Agreement") for the purposes set forth in the Agreement, attached hereto as **Exhibit "A"**. The Governing Authority authorizes and directs the Commission Chair, or his designee, to execute the final version of the Agreement, which may contain certain non-substantive and non-financial modifications that are approved by the Commission Counsel, and to execute and deliver all other instruments and documents and pay all costs that are necessary to fulfill MGNWC'S obligations under the Agreement.

SECTION 4. SEVERABILITY. If any section, paragraph, clause or provision of this Ordinance is held invalid, the invalidity of such section, paragraph, clause or provision shall not affect any of the other provisions of this Ordinance.

SECTION 5. REPEALER. All ordinances, resolutions, orders, or parts thereof, which conflict with the provisions of this Ordinance, to the extent of such conflict, are repealed.

Passed by the Morton Grove Niles Water Commission on September 22, 2017.



Steven C. Vinezeano, Chairperson,
Morton Grove Niles Water Commission

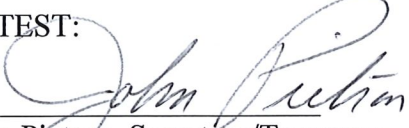
AYES: Vinezeano, Pietron

NAYS: None

ABSENT: None

RECORDED in the Morton Grove-Niles Water Commission records on September 22, 2017

ATTEST:



John Pietron, Secretary/Treasurer
Morton Grove Niles Water Commission

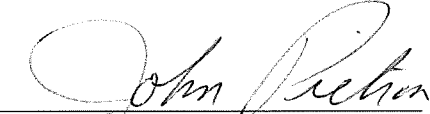
CERTIFICATION

I, John Pietron, certify that I am the duly appointed, qualified and acting Secretary/Treasurer Clerk of the Morton Grove Niles Water Commission. I do further certify that the above and foregoing, identified as Ordinance Number 17-13, is a true, complete and correct copy of an ordinance otherwise identified as

“A RESOLUTION AUTHORIZING A PROFESSIONAL SERVICES AGREEMENT BID WAIVER AND APPROVAL AND EXECUTION OF A PROFESSIONAL SERVICES AGREEMENT FOR INDEPENDENT ENGINEERING SERVICES REVIEW FOR THE WATER DELIVERY SYSTEM BY HNTB ENGINEERS”

passed by the Morton Grove Niles Water Commission on the 22nd day of September, 2017, the original of which is part of the books and records within my control as Secretary/Treasurer of the Morton Grove Niles Water Commission.

Dated this 22nd day of September 2017



John Pietron, Secretary/Treasurer
Morton Grove Niles Water Commission

Exhibit "A"

**Professional Services Agreement For Independent Engineering Services
Review For Water Delivery System
(MGNC and NHTB Corporation)**

(attached)

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WHEREAS, on September 14, 2017, Morton Grove-Niles Water Commission (MGNWC), issued a Request for Proposals, entitled "RFP Independent Engineering Design Review for Water Delivery System" (the "MGNWC RFP"), seeking bids for an independent review of the design engineering services provided by Stanley Consultants, Inc. including its preparation of project development reports, cost estimates for the design, finance and construction of water transmission lines, pumping and storage, and other related water delivery and receiving infrastructure that will extend from the City of Evanston's ("Evanston") point of delivery near the intersection of Emerson Street and McCormick Boulevard ("the Project"), and to make recommendations if necessary to modify the design and programming of the Project (the "Services"); and

WHEREAS, HNTB Corporation ("Consultant") submitted a response to the MGNWC RFP, dated September 20, 2017, to perform the Services relative to the Project, and MGNWC and the Consultant further negotiated and refined the Services that are to be performed, and negotiated the compensation for these Services (the "Agreement"); and

WHEREAS the Governing Authority of the MGNWC desire to approve the Agreement in accordance with the terms set forth in Exhibit "A" and further agree to engage HNTB subject to the Village of Niles ("Niles") and Village of Morton Grove ("Morton Grove") each adopting a resolution approving the Agreement and making an appropriation commitment on behalf of Morton Grove and Niles as set forth in this Resolution.

WHEREAS, the Consultant agreed to perform the Services in accordance with the terms of the Agreement; and

WHEREAS, the Local Government Professional Services Selection Act (50 ILCS 510/1 *et seq.*) (the "Act") requires the Agency to engage in a competitive request for qualification process in order to procure architectural, engineering or land surveying services, unless: (a) the Agency already has an existing relationship with the architectural, engineering or land surveying

firm; (b) an emergency situation exists and the expeditious selection of a firm is required; or (c) the Agency utilizes the waiver of competition provision set forth at Section 8 of the Act; and

WHEREAS, the Governing Authority desires to waive the competitive request for qualification process in accordance with Section 8 of the Act to hire HNTB to perform the Services on behalf of the Governing Authority in accordance with the terms of the Agreement. The Governing Authority finds that it can use the Section 8 waiver available under the Act because the municipal partners have an existing relationship with HNTB; and

WHEREAS, the Governing Authority has the authority to enter into the Agreement pursuant to the powers granted it by Article VII, Section 10(a) of the Illinois Constitution of 1970 and the Local Government Professional Services Selection Act (50 ILCS 510/1 *et seq.*), and finds that entering into this Agreement is in the best interests of the Agency and its members.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING AUTHORITY OF THE MORTON GROVE NILES WATER COMMISSION, AS FOLLOWS:

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

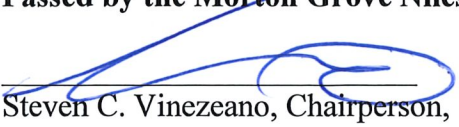
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SECTION 4. SEVERABILITY. If any section, paragraph, clause or provision of this Ordinance is held invalid, the invalidity of such section, paragraph, clause or provision shall not affect any of the other provisions of this Ordinance.

SECTION 5. REPEALER. All ordinances, resolutions, orders, or parts thereof, which conflict with the provisions of this Ordinance, to the extent of such conflict, are repealed.

Passed by the Morton Grove Niles Water Commission on September 22, 2017.



Steven C. Vinezeano, Chairperson,
Morton Grove Niles Water Commission

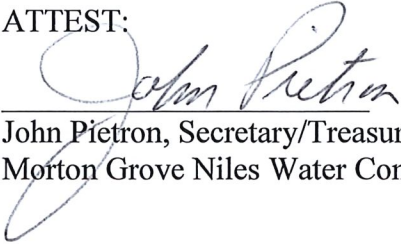
AYES: Vinezeano, Pietron

NAYS: None

ABSENT: None

RECORDED in the Morton Grove-Niles Water Commission records on September 22, 2017

ATTEST:



John Pietron, Secretary/Treasurer
Morton Grove Niles Water Commission

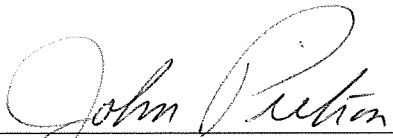
CERTIFICATION

I, John Pietron, certify that I am the duly appointed, qualified and acting Secretary/Treasurer Clerk of the Morton Grove Niles Water Commission. I do further certify that the above and foregoing, identified as Ordinance Number 17-13, is a true, complete and correct copy of an ordinance otherwise identified as

“A RESOLUTION AUTHORIZING A PROFESSIONAL SERVICES AGREEMENT BID WAIVER AND APPROVAL AND EXECUTION OF A PROFESSIONAL SERVICES AGREEMENT FOR INDEPENDENT ENGINEERING SERVICES REVIEW FOR THE WATER DELIVERY SYSTEM BY HNTB ENGINEERS”

passed by the Morton Grove Niles Water Commission on the 22nd day of September, 2017, the original of which is part of the books and records within my control as Secretary/Treasurer of the Morton Grove Niles Water Commission.

Dated this 22nd day of September 2017

A handwritten signature in cursive script that reads "John Pietron". The signature is written in black ink and is positioned above a horizontal line.

John Pietron, Secretary/Treasurer
Morton Grove Niles Water Commission

Exhibit "A"

**Professional Services Agreement For Independent Engineering Services
Review For Water Delivery System
(MGNC and NHTB Corporation)**

(attached)

HNTB Corporation
The HNTB Companies
Infrastructure Solutions

One South Wacker Drive
Suite 900
Chicago, IL 60606

Telephone (312) 930-9119
Facsimile (312) 930-9063
www.hntb.com

October 4, 2017



Bill Balling, MGNWC Superintendent
1000 Civic Center Drive
Niles, IL 60714

Subject: MGNWC Engineering Services Agreement
Design Services Review

Dear Bill:

Attached please find the fully executed copy of the subject engineering services agreement.

We appreciate the opportunity to serve the Water Commission.

Very truly yours,
HNTB Corporation

A handwritten signature in black ink that reads "W. Robert Ivarson". The signature is written in a cursive, flowing style.

W. Robert Ivarson, PE, D.WRE
Practice Director, Water Resources

Cc: Teresa Hoffman Liston, MGNWC

**PROFESSIONAL SERVICES AGREEMENT FOR INDEPENDENT ENGINEERING REVIEW SERVICES
OF DESIGN OF WATER TRANSMISSION MAINS AND FACILITY IMPROVEMENTS
BY AND BETWEEN THE MORTON GROVE-NILES WATER COMMISSION AND HNTB CORPORATION**

This **PROFESSIONAL SERVICES AGREEMENT FOR INDEPENDENT ENGINEERING SERVICES REVIEW OF DESIGN OF WATER TRANSMISSION MAINS AND FACILITY IMPROVEMENTS** ("Agreement") is made this ____ day of September, 2017, by and between HNTB Corporation, an Illinois corporation, authorized to conduct business in the State of Illinois, whose mailing address is One South Wacker, Suite 900 Chicago, IL 60606 (the "Consultant") and the **Morton Grove-Niles Water Commission**, whose mailing address is 1000 Civic Center Drive, Niles, Illinois 60714 ("Commission" or the "MGNWC"). The Consultant and the Commission are at times referred to herein individually as a "Party" and collectively as the "Parties." Morton Grove and Niles are at times referred to collectively as the "Villages".

RECITALS

WHEREAS, , on or about September 16, 2017, the Morton Grove-Niles Water Commission (MGNWC), issued a Request for Proposals, entitled "*RFP Independent Engineering Design Review for Water Delivery System*" attached hereto as Attachment A. (the MGNWC RFP), to provide an independent review of the project development report and the engineering design to confirm design elements and assumptions associated with the Stanley Consultants, Inc.'s work and to point out, if necessary, recommendations to consider to modify the design and programming of this project; and

WHEREAS, HNTB Corporation (Consultant) submitted a response to the MGNWC RFP, dated September 20, 2017, to perform the services relative to the project, and MGNWC and the Consultant further negotiated and refined the services to be performed; and

WHEREAS, MGNWC agrees to retain the Consultant to perform the Services in accordance with the terms of this Agreement; and

WHEREAS, the Consultant agrees to perform the Services in accordance with the terms of this Agreement.

NOW, THEREFORE, in consideration of the recitals, mutual covenants and representations set forth in this Agreement, the Parties mutually agree that the Consultant shall perform the Services described below, and the MGNWC shall pay the Consultant for said performance, under the following terms and conditions:

SECTION 1. INCORPORATION AND DEFINITIONS.

Each of the above Whereas paragraphs are incorporated into this Section 1 as material provisions of this Agreement.

Whenever used in this Agreement, the following terms shall have the meanings indicated and the singular shall be read to include the plural and vice versa, and pronouns stated herein shall be construed to include all genders.

- A. The term "Agreement" includes the Recitals set forth above, which are incorporated into Section 1 of this Agreement, and shall mean this Agreement and its Attachments as entered into by the Consultant and MGNWC setting forth the terms and conditions governing the Services.
- B. The term "MGNWC Affiliates" means MGNWC's former, current and future appointed officials, officers, commissioners, employees, engineers, attorneys, consultants, authorized representatives and volunteers.

- C. The term "Morton Grove Affiliates" means Morton Grove's former, current and future appointed and elected officials, officers, president and trustees, employees, engineers, attorneys, consultants, authorized representatives and volunteers.
- E. The term "Niles Affiliates" means Niles' former, current and future appointed and elected officials, officers, president and trustees, employees, engineers, attorneys, consultants, authorized representatives and volunteers.
- F. The term "Services" or "Work" means the professional consulting and engineering services that are listed in the Scope of Services dated September 20, 2017 and attached hereto as Attachment B.
- G. The term "Scope of Work" has the same meaning as the term "Scope of Services" as used in the MGNWC RFP and this Agreement.
- H. The terms "sub-consultant" and "sub-contractor" mean the person, independent contractor, partnership, corporation, joint venture or other business entity (including its employees, agents or others performing or supplying on its behalf, or at its direction) having a contract with the Consultant for the performance of any portion of the Services.
- I. The term "MGNWC Working Group" means the respective staff and consultants employed by Morton Grove, Niles and the Commission who are working on the Project.

SECTION 2. TERM OF AGREEMENT.

This Agreement shall be effective on the date that the last signatory executes this Agreement, which date shall be inserted on page 1 of this Agreement, and shall terminate upon the completion and acceptance of the Services by the MGNWC and final payment to the Consultant by the MGNWC, which shall occur at the completion of award of construction contracts on or before October 27, 2017 (the "Completion Date"), as provided below (the "Term"), unless this Agreement is terminated earlier by any Party, or by mutual agreement, or the Parties agree, in writing, to extend the Term.

SECTION 3. SCOPE OF SERVICES

- A. **Services; Non-Exclusive Relationship.** The Consultant agrees to perform the Services in order to complete the Scope of Work in accordance with the terms and conditions of this Agreement. The Consultant shall provide the Services on behalf of and at the direction of the MGNWC, the MGNWC Representative (defined below) and/or the MGNWC Working Group, and understands that this Agreement is not an exclusive relationship in that the MGNWC, in its collective discretion, is free to enter other agreements with other vendors or consultants to perform work on the Project. The MGNWC, in its collective discretion, is also free to assign all or any portion of the Services to other vendors or consultants, upon ten (10) calendar days written notice to the Consultant's Primary Representative, and the Compensation of the Consultant shall be reduced on an equitable basis. Unless otherwise indicated by the MGNWC, the primary contact point for the MGNWC and the MGNWC Working Group ("MGNWC Representative") to provide direction to the Consultant under this Agreement shall be:

Bill Balling
 WRB, LLC
 Cellular Phone: (847) 863-7101
 Office Phone: (847) 398-8399
 Email: bill@wrblc.com

NOTE: Copies of all correspondence and documents shall be sent via email to the MGNWC Chair, the MGNWC Representative, the Morton Grove Village Administrator and the Niles Village Manager at their business addresses at the same time the originals are sent by the Consultant.

B. **Mutual Cooperation.** The MGNWC agrees to cooperate with the Consultant in the performance of the Services, including meeting with the Consultant on an as-needed basis and providing the Consultant with such "Confidential Information" (as defined in Section 10 below) and non-confidential information that the MGNWC may have that may be relevant and helpful to the Consultant's performance of the Services. These documents shall be furnished to the Consultant without cost or expense to the Consultant. The Consultant agrees to cooperate with the MGNWC in the performance and completion of the Services, including meeting with the MGNWC, the MGNWC Representative and/or the MGNWC Working Group on an as-needed basis, and with any other consultants engaged by the MGNWC. Within this Agreement, anytime that the MGNWC is referenced in terms of providing direction to, making requests of, or communicating with the Consultant, that MGNWC reference shall also be read to include Morton Grove, Niles, the MGNWC Representative and/or the MGNWC Working Group.

C. **Consultant's Personnel and Representative.**

- (1) **Primary Representative.** The Consultant shall designate Bob Ivarson as, who shall be available during normal business hours (Monday through Friday from 8:00 a.m. CST to 5:00 p.m. CST) and who shall serve as the Consultant's primary authorized representative throughout the Term of this Agreement. This "Primary Representative" shall be readily available to respond to communications from the MGNWC and shall be primarily responsible for performing the Services as requested by the MGNWC. The Primary Representative shall receive requests from the MGNWC to perform the Services and shall have full authority to execute the directions of the MGNWC, without delay, and promptly supply any necessary labor, equipment or incidentals to do so. The Consultant also shall provide the MGNWC with the name and phone number of the Consultant's Primary Representative who, in the case of an off-hours emergency, shall be readily accessible and available for a quick response. The Consultant shall immediately notify the MGNWC in writing of any change in the identity and telephone number of the Consultant's Primary Representative. The Primary Representative shall not be changed by the Consultant without the MGNWC's prior written approval. If the Primary Representative fails to perform the Services to the satisfaction of the MGNWC, then the Consultant shall immediately replace the Primary Representative with a new person with comparable experience and knowledge.
- (2) **Availability of Personnel.** The Consultant shall provide adequate personnel necessary to complete the Services. The Consultant shall notify the MGNWC as soon as practicable prior to terminating the employment of, reassigning or receiving notice of the resignation of any personnel assigned to regularly perform the Services. The Consultant shall have no claim for damages and shall not bill the MGNWC 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 time in performing the Services as a result of any such termination, reassignment or resignation.
- (3) **Approval and Use of Sub-consultants / Sub-contractors.** The Consultant shall perform the Services with its own personnel and under the management, supervision and control of its own organization, unless otherwise approved in advance and in writing by the MGNWC. All sub-consultants and sub-contractors used by the Consultant shall be acceptable to and approved in advance by the MGNWC. The MGNWC's approval of any sub-consultant or sub-contractor shall not relieve the Consultant of full responsibility and liability for the provision, performance and completion of the Services as required by this Agreement, including the agreed upon compensation for the Services. All Services performed under any sub-contract shall be subject to each of the terms of this Agreement, in the same manner as if performed by employees of the Consultant. Every subcontract that the Consultant enters into in regard to the performance of the Services under this Agreement shall include an express provision binding the sub-consultant or sub-contractor to all of the terms of this Agreement, and specifically noting the obligations in this **Section 3.C(3)**.
- (4) **Removal of Personnel and Sub-consultants / Sub-contractors.** If any of Consultant's personnel or any sub-consultant or sub-contractor fails to perform the Services in a manner satisfactory

to the MGNWC and consistent with commonly accepted industry standards and professional practices, the Consultant shall immediately, upon notice from the MGNWC, remove and replace such personnel or sub-consultant or sub-contractor. 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 time of performance as a result of any such removal or replacement.

- (5) **Financial Ability to Perform.** The Consultant states that it is financially solvent, has the financial resources necessary, has sufficient experience and competence, and has the necessary capital, facilities, organization and staff necessary to provide, perform and complete the Services set forth in this Agreement.
- D. **Notice to Proceed with Services.** The Consultant shall commence the Services immediately upon execution of this Agreement. ("**Commencement Date**"). The Consultant shall diligently and continuously work on the Services until the completion of the Services or upon the termination of this Agreement, but in no event later than the Completion Date. The Parties may mutually agree in writing to modify the Completion Date. Delays caused by the MGNWC shall extend the Completion Date in equal proportion to the delay caused by the MGNWC. In the event that the Consultant performs any Services and incurs any expenses in furtherance of the Project prior to receiving a written notice to proceed from the MGNWC in regard to the Project or any phase of the Project, the Services are performed and the expenses are incurred at the Consultant's sole risk, and such Services and expenses are not authorized for payment or reimbursement, unless and until a written notice to proceed is issued by the MGNWC. Those actual, documented Services performed prior to the issuance of the MGNWC notice to proceed shall be paid by the MGNWC as part of the "not to exceed" Fee provided by this Agreement.
- E. **Suspension of Services.** The MGNWC, at any time and for any reason, may suspend work on any or all Services by issuing a written work suspension notice to the Consultant. The Consultant must stop the performance of all Services within the scope of the suspension notice until the MGNWC directs the Consultant in writing to resume performance of the Services.
- F. **Termination before Completion of Services.** If the MGNWC decides not to proceed with the Project or any phase of the Project for any reason, this Agreement shall terminate upon written notice to the Consultant issued by the MGNWC advising of the termination of this Agreement. In such case, the MGNWC shall be liable to the Consultant only for payment of all actual, completed, documented Services through the date of termination. The Consultant agrees to waive any and all claims and causes of action for any other damages or losses of any kind that could be brought relative to the termination of this Agreement by the MGNWC based on the MGNWC's decision not to proceed with the Project or any phase of the Scope of Work.
- G. **Reporting; Delivery Date of Design Documents.** The Consultant shall provide feedback suggested modifications or potential conflicts or errors in the Stanley Services as soon as such issues are identified so that MGNWC can consider modifications to the Stanley Work expeditiously. The Consultant shall also regularly, and no less than weekly, provide both written and verbal reports to the MGNWC Representative, to the MGNWC Working Group and to any other MGNWC staff or officials upon request regarding the progress of the Services. The MGNWC Representative can require more frequent reporting by the Consultant at any time. On or before the Completion Date and upon final completion of the Services, the Consultant shall deliver a final report addressed to the MGNWC Board with copies delivered to the MGNWC Representative and the MGNWC Working Group members that confirms the completion of the Services
- H. **Electronic Reporting.** In addition to providing the MGNWC Board, the MGNWC Representative and the MGNWC Working Group members with paper copies of all reports, data, the Consultant (and the Primary Representative) shall, to the extent possible, submit documentation regarding the Services to the MGNWC Board, the MGNWC Representative and the MGNWC Working Group electronically. The Parties agree to

work together to develop a procedure for electronic communication of data that is effective and efficient for all Parties.

- I. **Final Acceptance.** The Services shall be considered complete on the date of final written acceptance by the MGNWC Representative of the Services, which acceptance shall not be unreasonably withheld or delayed.
- J. **Sub-consultant/Sub-contractor List.** The Consultant shall maintain an updated list of sub-consultant/sub-contractors who are working on the Project and shall provide the list and any updates to the list to the MGNWC Representative. A copy of the initial sub-consultant/sub-contractor list shall be attached hereto as **Attachment B** and made a part hereof; and any updated version(s) of the list shall be incorporated herein by reference.

SECTION 4. ATTACHMENTS.

The following attachments are either incorporated by reference or attached to and made part of this Agreement as noted. In the event of a conflict between an attachment, except for Attachment G and the text of this Agreement, the text of this Agreement shall control. In the event of a conflict between Attachment G and the text of this Agreement, Attachment G shall control.

Attachment A	Morton Grove-Niles Water Commission (MGNWC), Request for Proposals, entitled "RFP Independent Engineering Design Review for Water Delivery System" dated September 16, 2017, (the "MGNWC RFP").
Attachment B	Consultant's Proposal for Services regarding the MGNWC RFP, dated September 2, 2017 (incorporated by reference).
Attachment C	Sub-consultant/Sub-contractor List
Attachment D	Compensation and Fee Schedule for Services ("Fee Schedule")
Attachment E	Insurance Requirements for the Consultants, Sub-consultants and Sub-contractors
Attachment F	Services Change Order (Form)
Attachment G	Contract Clauses Required by the Illinois Environmental Protection Agency ("IEPA") for Incorporation into this Agreement

SECTION 5. INDEPENDENT CONTRACTOR STATUS.

- A. **Relationship of the Parties.** The Consultant's role, and the role of its employees and its sub-consultants and sub-contractors, with respect to the performance of the Services, is solely that of an independent contractor. The following terms and conditions are operative and applicable to the Parties under this Agreement:
 - (1) **Non-Exclusive Contractual Arrangement.** The Consultant and its employees and its sub-consultants and sub-contractors are retained under a non-exclusive contractual arrangement to perform the Services only for the limited purposes set forth in this Agreement. No provision of this Agreement or subsequent conduct between the Parties shall be construed to create a relationship between the Parties as that of "employer-employee," "principal and agent," "partners" or "participants in a joint venture."
 - (2) **No Authority to Bind.** The Consultant and its employees and its sub-consultants and sub-contractors shall have no authority or right to enter into any contract or incur any debt or liability of any nature in the name of, or on behalf of the MGNWC or Morton Grove or Niles.

- (3) **Not Employees of MGNWC.** The Consultant and its employees and its sub-consultants and sub-contractors serve only as independent contractors of the MGNWC, and not as employees of the MGNWC, Morton Grove or Niles, for all purposes, including, but not limited to, the application of the Fair Labor Standards Act minimum wage and overtime payments, including any similar Illinois wage laws, the Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act, the Illinois Unemployment Insurance Act (820 ILCS 405/1 *et seq.*), and the Illinois Worker's Compensation and Occupational Diseases Act (820 ILCS 305/1, *et seq.*). Therefore, neither federal nor state nor local income tax nor payroll tax of any kind, nor any other withholding, shall be withheld or paid by the MGNWC, Morton Grove, Niles or Cook County on behalf of the Consultant, and its employees and its sub-consultants and sub-contractors. Nothing in this Agreement shall be construed as MGNWC, Morton Grove, Niles or Cook County requiring or acquiring or incurring any liability for Worker's Compensation, FICA, withholding tax, unemployment compensation or any other payment which would be required to be paid by the MGNWC, Morton Grove, Niles or Cook County if the MGNWC and the Consultant, and its employees and its sub-consultants and sub-contractors, were engaged in an "employer-employee" relationship.
- (4) **Payment of Taxes.** The Consultant and its employees and its sub-consultants and sub-contractors are responsible, pursuant to applicable law, for payment of any income and employment taxes or any other taxes of any kind arising from their receipt of compensation under this Agreement.
- (5) **Ineligible for MGNWC/Village/County Employment Benefits.** The Consultant and its employees and its sub-consultants and sub-contractors agree that they shall not be entitled to receive or to participate in any employee benefits or health, life or professional liability insurance programs or other employee benefit programs or pension plans or retirement plans available to part-time or full-time MGNWC, Morton Grove, Niles or Cook County employees, and agree that they are ineligible to file a claim for unemployment compensation benefits or for Worker's Compensation benefits against MGNWC, Morton Grove, Niles or Cook County. The Consultant and its employees and its sub-consultants and sub-contractors agree not to file any such claims in the event this Agreement is terminated or if they are injured or become ill as a result of performing any Services under this Agreement.
- (6) **Autonomy.** The Consultant and its employees and its sub-consultants and sub-contractors are free to use their time, energy and skill when they are not performing the Services for the MGNWC on other endeavors, as they deem appropriate and advisable.
- (7) **Discretion Over Performance and Delivery of Services.** The MGNWC shall have no control over the timing, means and manner in which the Services are to be performed by the Consultant, and its employees or its sub-consultants and sub-contractors. The Consultant is responsible for directing and controlling the performance and completion of the Services in a timely manner that meets MGNWC's requested schedule and the Completion Date.
- (8) **Certification, Training and Licensing.** The Consultant represents that its employees, sub-consultants and sub-contractors: (a) are fully qualified, licensed, registered, trained and capable within their respective disciplines in accordance with applicable laws, regulations and industry standards, and (b) currently hold, and shall maintain throughout the Term of this Agreement, all required licenses, registrations, permits and certificates applicable to the their performance of the Services. To the extent that equipment is being utilized in the providing of the Services, the Consultant and its employees and its sub-consultants and sub-contractors shall use their own equipment and tools of the trade, and be qualified and authorized to operate same.

- (9) **Applicable Regulations.** The Consultant, and its employees and its sub-consultants and sub-contractors, shall be familiar with and comply with the applicable Federal, State, County and local codes, ordinances and regulations, and shall use, apply and enforce the same when performing the Services.
- (10) **Injury to Reputation.** The Consultant, and its employees and its sub-consultants and sub-contractors, shall not act in a manner that might injure the reputation of Morton Grove and the Morton Grove Affiliates or Niles and the Niles Affiliates.

SECTION 6. COMPENSATION AND METHOD OF PAYMENT.

A. Fee Amount.

- (1) **Fee Schedule.** The MGNWC agrees to pay for any requested, fully completed and accepted Services rendered by the Consultant in accordance with and not to exceed the Compensation and Fee Schedule (**Attachment D**) attached to this Agreement. The "not to exceed" Fee for the Basic Services shall be \$75,000 (the "Not-To-Exceed Fee").
- (2) **Out-of-Pocket Costs.** The Consultant, at its sole cost, shall pay all other expenses related to the performance of this Agreement including, but not limited to, travel, printing, reproduction, mailing, insurance premiums, licensing fees, fuel, overhead, administrative costs, delivery charges, and all costs associated with the acquisition and maintenance of vehicles and equipment. The Consultant may request reimbursement of these out-of-pocket costs, including the Reimbursable Costs shown in attached **Attachment D**, upon proper documentation, but such reimbursement shall be paid as part of the payment of and within the dollar amount of the Not-To-Exceed Fee.
- (3) **Scope of Fees.** The amounts set forth in the Compensation and Fee Schedule include all applicable Federal, State, County and Village taxes of every kind and nature applicable to the Services, as well as all taxes, contributions and premiums for unemployment insurance, old age or retirement benefits, pensions, annuities or similar benefits, and all costs, royalties and fees arising from the use on, or the incorporation into, the Services, of patented or copyrighted equipment, materials, supplies, tools, appliances, devices, processes or inventions. All claims or rights to claim additional compensation by reason of the payment by the Consultant of any such tax, contribution, premium, cost, royalty or fee are the sole responsibility of the Consultant, and any claim or demand from any person that the MGNWC or Morton Grove or Niles or Cook County pay such taxes, contributions, premiums, costs, royalties or fees are waived and released and shall be indemnified by the Consultant.

B. Invoices and Payment.

- (1) **Frequency and Content.** The Consultant shall submit invoices to the MGNWC monthly to MGNWC Representative. A copy of each invoice shall also be addressed and delivered to both the Village Administrator of Morton Grove and the Village Manager of Niles at their respective business addresses as set forth in **Section 13(D)** below. Each invoice must be accompanied by receipts, vouchers and other documents as necessary to reasonably establish the Consultant's right to payment of the Compensation stated in the invoice. In addition, each invoice must include employee classifications and employee designations (e.g., initials), rates per hour, and hours worked by each employee classification. If the Services are to be performed in separate phases, then, for each phase, the invoice must also include: the total amount billed in the current phase(s), the total amount billed to date including each completed phase and any current phase(s), and the estimated percent completion of the Services for each phase and on an overall basis.

- (2) **Invoice Payment.** The MGNWC agrees to make payments to the Consultant within thirty (30) calendar days of receipt of the invoice, unless there is a dispute in regard to the invoice, and to pay interest on unpaid balances under the provisions of the Local Government Prompt Payment Act (50 ILCS 505/1, *et seq.*), unless the Parties mutually agree to waive the interest payment. If there is a dispute in regard to any invoice, the MGNWC shall make payment for that portion of the invoice not in dispute and the Parties shall cooperate to resolve the dispute as soon as possible in accordance with Subsection 6.G. below, but any such dispute shall not cause the Consultant to stop performing Services or delay in its completion of the Scope of Work. The MGNWC's failure to object to any monthly invoices and payment by the MGNWC for Services related to any monthly invoice or other periodic progress payment shall not be an acceptance by the MGNWC of such Services that are incomplete and in progress.
- (3) **Final Payment.** The Services will be considered complete on the date of final written acceptance by the MGNWC after completion of all of the Services for the entire Scope of Work or acceptance of the relevant phase of the Services for a portion of the Scope of Work. After delivery of the final report and completion of the Services, the Consultant shall request in writing a confirmation of acceptance of the Services by the MGNWC and shall also deliver an invoice for final acceptance and payment. The MGNWC will make final payment to the Consultant within thirty (30) calendar days after final written acceptance of the Services to be delivered under this Agreement, after deducting therefrom charges, if any, as provided in this Agreement ("Final Payment"). The acceptance by the Consultant of Final Payment will operate as a full and complete release of the MGNWC by the Consultant of and from any and all lawsuits, claims or demands for further payment of any kind for the Services encompassed by the Final Payment.
- (4) **Deductions.** Notwithstanding any other provision of this Agreement, the MGNWC may deduct and withhold from any payment or from Final Payment such amounts as may reasonably appear necessary to compensate the MGNWC for any loss due to: (1) Services that are defective, nonconforming or incomplete, (2) liens or claims of lien, (3) claims against the Consultant or the MGNWC made by any of the Consultant's sub-consultants, sub-contractors or suppliers or by other persons about the Services, (4) delay by the Consultant in the completion of the Services, (5) the cost to the MGNWC, including without limitation reasonable attorneys' fees, of correcting any of the matters stated in this Section or exercising any one or more of the MGNWC's remedies set forth in Section 6.G. (Informal Dispute Resolution) or Section 13.O. (Cumulative Rights and Remedies) below. The MGNWC will notify the Consultant in writing, in accordance with Section 13.D. below, of the MGNWC's determination to deduct and withhold funds, which notice will state with specificity the amount of, and reason or reasons for, such deduction and withholding.
- (5) **Use of Deducted Funds.** The MGNWC will be entitled to retain any and all amounts withheld, pursuant to Section 6.B.(4) (Deductions) above, until the Consultant either has performed the obligations in question or has furnished security for that performance satisfactory to the MGNWC. The MGNWC will be entitled to apply any money withheld or any other money due to the Consultant to reimburse itself for any and all costs, expenses, losses, damages, liabilities, suits, judgments, awards and reasonable attorneys' fees (collectively "Costs") incurred, suffered or sustained by the MGNWC and chargeable to the Consultant under this Agreement.
- C. **Records; Audit.** The Consultant shall maintain records showing the Services performed and a record of additional services performed, and shall permit the MGNWC to inspect and audit all data and records of the Consultant for Services performed pursuant to this Agreement. The records shall include all billable charges and costs, descriptions and time entries by personnel (in minutes/hours increments) incurred in performing the Services in accordance with generally accepted accounting practices, consistently applied, and in such manner as to permit verification of all entries. Upon written request by the MGNWC, the records shall promptly be made available to the MGNWC or its

auditors during normal business hours during the Term of this Agreement, and for three (3) consecutive calendar years after the termination of this Agreement. Copies of such records shall be promptly furnished by the Consultant to the MGNWC at a reasonable per page photocopy expense or in an electronic or digital format at no charge.

D. **Claim In Addition To Agreement Amount.**

- (1) The Consultant shall provide written notice to the MGNWC of any claim for additional Compensation as a result of action taken by the MGNWC, within fifteen (15) calendar days after the occurrence of such action.
- (2) The Consultant acknowledges and agrees that written notice pursuant to this Section shall not be deemed or interpreted as entitling the Consultant to any additional compensation; and that any changes in the Agreement Amount shall be valid only upon written amendment signed by all Parties pursuant to **Section 6F. (Service Change Orders; Delays)** below.
- (3) Regardless of the decision of the MGNWC 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 MGNWC, without interruption.

E. **Additional Services.** The Consultant acknowledges and agrees that in no event shall the MGNWC or Morton Grove or Niles be liable for any additional Compensation or fees or costs incurred by the Consultant or any sub-consultant or sub-contractor in connection with any Services provided by the Consultant or any sub-consultant or sub-contractor that are outside of, or exceed, the scope of this Agreement ("Additional Services"), regardless of whether such Additional Services are requested or directed by the MGNWC or Morton Grove or Niles, except upon the prior written consent of the MGNWC provided under Section 6.F. (Service Change Orders; Delays) below.

F. **Services Change Orders; Delays.**

- (1) **Services Change Orders.** The MGNWC, from time to time, may issue a written order modifying or otherwise changing the scope of the Services included in a Services Change Order (a "Services Change Order"). Any one or more Services Change Order which increases the original contract not to exceed price amount (individual or in the aggregate) by more than Twenty Thousand and No/100 Dollars (\$20,000.00) must be approved by Resolution of the corporate authorities of the MGNWC. For a Services Change Order below the Twenty Thousand and No/100 Dollars (\$20,000.00) threshold, the MGNWC Representative is authorized to execute the Services Change Order (provided it is not part of other related Services Change Orders that, in the aggregate, exceed the foregoing dollar threshold) after review and approval by the MGNWC Chair. Copies of all Services Change Orders will be sent to the MGNWC Board by the MGNWC Representative upon receipt from the Consultant. The Services Change Order will be generally in the form attached to and by this reference incorporated into this Agreement as **Attachment F**. The MGNWC or the Consultant may request a Services Change Order based on new or different information or changes in conditions or circumstances that were not known or not anticipated at the time of approval of this Agreement that results in change in the scope of any Services to be performed under this Agreement. A Services Change Order may include additions to and deletions from the Services and will include any equitable increases or decreases to the Compensation as mutually agreed to by the Parties.
- (2) **Revision Notices.** Within five (5) calendar days of receipt of a MGNWC-approved Services Change Order, the Consultant must notify the MGNWC Representative and the MGNWC Board in writing if the Consultant desires a revision to the Services Change Order (a "Revision Notice"). The Revision Notice must clearly state the Consultant's requested revisions and the reasons for the revisions. If the MGNWC Board agrees to any revision, then the MGNWC

Representative will issue a revised Services Change Order in a form acceptable to the Parties. If the Consultant does not submit a Revision Notice within the 5 calendar day period, then the Consultant will be deemed to have accepted the Services Change Order and the Services Change Order will be final.

- (3) **Disagreements over Services Change Order Terms.** If the MGNWC and the Consultant cannot agree on the proposed revisions to the Compensation or Project Schedule terms of a Services Change Order, then the Parties will apply the dispute resolution provisions of this Agreement in order to reach agreement. In that event, the Consultant must proceed diligently with the revised Services as directed by the MGNWC Board pending resolution of the disagreement. The Consultant will be compensated equitably for the work the Consultant undertakes during the informal dispute resolution process.
- (4) **No Change in Absence of a Services Change Order.** No claim for an adjustment in Compensation or Project Schedule will be made or allowed unless it is embodied in a Services Change Order signed by the MGNWC Representative and the Consultant. If the Consultant believes it is entitled to an adjustment in the Compensation or Project Schedule terms that has not been included, or fully included, in a Services Change Order, then the Consultant may submit to the MGNWC a written request for the issuance of, or revision of, a Services Change Order including the desired adjustment. The Consultant's request must be submitted before the Consultant proceeds with any Services for which an adjustment is desired.
- (5) **Delays.** If a delay in providing Services results from one or more causes that could not be avoided or controlled by the Consultant, then the Consultant may be entitled to an extension of the Project Schedule for a period of time equal to that delay, or an adjustment in Compensation for extra costs related to the delay, or both. The Consultant must notify the MGNWC in writing within ten (10) calendar days after the start of the delay and again in writing within ten (10) calendar days after the delay has ended (the "Delay Period"). The first notice must state the cause or causes of the delay and the impact of the delay on providing Services. The second notice must state the cause or causes of the delay, the length of the delay, the reasons why the delay disrupted performance of the Services, and the Consultant's request, if any, for a change in Compensation or Project Schedule. If the Consultant fails to submit notices as provided for in this Section, then the Consultant will be deemed to have waived any right to an adjustment in Compensation for the Services.

G. **Informal Dispute Resolution.**

- (1) **Dispute Resolution.** If a dispute arises between any of the Parties concerning this Agreement, the Parties will first attempt to resolve the dispute by negotiation. Each Party will designate persons to negotiate on their behalf. The Party contending that a dispute exists must specifically identify in writing all issues and present it to the other Parties. The Parties will meet and negotiate in an attempt to resolve the matter. If the dispute is resolved as a result of such negotiation, there must be a written determination of such resolution, and ratified by the corporate authorities of each Party, which will be binding upon the Parties. If necessary, the Parties will execute an addendum to this Agreement. Each Party will bear its own costs, including attorneys' fees, incurred in all proceedings in this Section. If the Parties do not resolve the dispute through negotiation, any Party to this Agreement may pursue other remedies under Section 13.O. (Cumulative Rights and Remedies) below to enforce the provisions of this Agreement.
- (2) **Performance of Services.** During the dispute resolution process, the Consultant must proceed diligently with the performance of Services.

SECTION 7. PERFORMANCE AND STANDARD OF SERVICES.

A. **Consultant Responsibilities.** The Consultant, at its sole cost, agrees as follows:

- (1) **Standard of Performance.** The Consultant shall perform the Services in a manner consistent with the degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances in the Chicago Metropolitan Region (the "Standard of Performance"). All Services must be free from defects and flaws, must conform to the requirements of this Agreement, and must be performed in accordance with the Standard of Performance. The Consultant is fully and solely responsible for the quality, technical accuracy, completeness and coordination of all Services. Such performance shall be to the satisfaction of the MGNWC. All Services shall be performed in a reasonably prompt manner.
1. (2) **Corrections of Defects, Errors and Omissions.** If any errors, omissions or acts, intentional or negligent, are made by the Consultant and/or its employees, its sub-consultants and sub-contractors in providing the Services, the correction of which requires additional Services, the Consultant shall be required to perform such additional Services as may be necessary to remedy same without undue delay and without any charge or cost to the MGNWC. The Consultant must provide, for no additional Compensation and at no separate expense to the MGNWC, all work required to correct any defects or deficiencies in the performance of Services, regardless of whether the defect or deficiency relates to the work of the Consultant or of the Consultant's sub-consultants or suppliers.
- (3) **Risk of Loss.** The Consultant bears the risk of loss in providing all Services. The Consultant is responsible for any and all damages to property or persons arising from any Consultant negligent or intentional error, omission or act and for any losses or costs to repair or remedy any work undertaken by the MGNWC based on the Services as a result of any such error, omission or act. Notwithstanding any other provision of this Agreement, the Consultant's obligations under this Section 7 exist without regard to, and may not be construed to be waived by, the availability or unavailability of any insurance, either of the MGNWC or the Consultant, to indemnify, hold harmless or reimburse the Consultant for damages, losses or costs.
- (4) **Opinions of Probable Cost.** The Parties recognize that neither the Consultant nor the MGNWC has control over the costs of labor, materials and equipment, nor services furnished by others, nor over competitive bidding, market nor negotiating conditions, nor construction contractors' methods of determining their prices. Accordingly, any opinions of probable costs provided under this Agreement are considered to be estimates only, made on the basis of the Consultant's experience and qualifications, and those opinions represent the Consultant's best judgment as an experienced and qualified professional, familiar with the industry. The Consultant does not guaranty that proposals, bids or actual costs will not vary from the opinions prepared by the Consultant.
- (5) **Communications with Regulators.** The Consultant must comply with all statutes, ordinances, codes and regulations applicable to the Services. Except to the extent expressly set forth in this Agreement, the Consultant may not communicate directly with applicable governmental regulatory agencies with regard to Services without prior express authorization from the MGNWC Board or the MGNWC Representative. The Consultant must either direct inquiries from governmental regulatory agencies to the MGNWC Board for appropriate response or respond on behalf of the MGNWC as directed by the MGNWC Representative. To the extent

that the Consultant communicates directly with applicable governmental regulatory agencies with regard to Services, it shall promptly (same day or within twenty-four (24) hours) inform the MGNWC Representative of such communications, provide copies to the MGNWC Representative of any such written communications (e.g., letters, emails, etc.) and shall copy the MGNWC Representative or the MGNWC Working Group on its own communications to the governmental regulatory agencies, as requested by the MGNWC. In those cases that the MGNWC will be either responding directly to the regulatory agencies, or providing information to the Consultant to allow the Consultant to respond, the response must be made within five (5) calendar days so as not to delay the Project.

- (6) **Consultant Payments; Waivers of Liens.** The Consultant must pay promptly for all services, labor, materials and equipment used or employed by the Consultant in the performance of any Services and must not cause any materials, equipment, structures, buildings, premises and property of the MGNWC to be impressed with any mechanic's lien or other liens. The Consultant, if requested, must provide the MGNWC with reasonable evidence that all services, labor, materials and equipment have been paid in full and with waivers of lien as appropriate.
- (7) **Permits and Licenses.** The Consultant, and its sub-consultants and sub-contractors, will assist the MGNWC in obtaining all permits and licenses, registrations, qualifications and other governmental authorizations required by all applicable laws and regulations that relate to the performance of the Services. The MGNWC retains responsibility to pay for all permits and licenses, registrations, qualifications and other governmental authorizations. If the Consultant pays for any permits and licenses, registrations, qualifications and other governmental authorizations on behalf of the MGNWC, the cost will be paid as an Additional Service (Subsection 6.E.) in addition to this Agreement's not to exceed fee.
- (8) **Safety; Hazardous Materials.**
 - i. **Protection of Health, Environment.** The Consultant's personnel must be experienced and properly trained to perform the Services and must take adequate precautions to protect human health and the environment in the performance of Services.
 - ii. **Notice of Hazardous Conditions.** If the Consultant observes a potentially hazardous condition relating to the Services, the Consultant must immediately bring that condition to the attention of the MGNWC Board, the MGNWC Representative and the MGNWC Working Group.
 - iii. **Hazardous Materials.** The Consultant acknowledges that there may be hazardous substances, wastes or materials as defined by applicable Law ("Hazardous Materials") within the proposed Project area or otherwise associated with Services, and the Consultant under those circumstances must take appropriate precautions to protect its employees, sub-consultants and suppliers, and shall advise in writing the MGNWC Board, the MGNWC Representative and the MGNWC Working Group of the presence or suspected presence and location of such Hazardous Materials.

B. **MGNWC Responsibilities.** The MGNWC, at its collective cost, agrees as follows:

- (1) To designate in writing a person with authority to act on behalf of the MGNWC with respect to the Services. The MGNWC Representative will have the authority to act on behalf of the MGNWC, except on matters that require approval of the respective corporate authorities of the MGNWC or the input of the MGNWC Working Group.

- (2) To provide to the Consultant all criteria and information about the requirements for the Services, including, as relevant, the MGNWC's objectives and constraints, schedule, space, capacity and performance requirements, and budgetary limitations.
- (3) To provide to the Consultant existing studies, reports and other available data relevant to the Services.
- (4) To arrange for access to, and make provisions for the Consultant (and its employees, sub-consultants and sub-contractors) to enter on, public and private property as reasonably required for the Services.
- (5) To provide, as relevant, existing surveys and GIS data describing physical characteristics, legal limitations and utility locations in Evanston, Niles, Morton Grove and Skokie for the Services and the services of other consultants when the services of other consultants are requested by the Consultant and are necessary for the performance of the Services. Note: Under the Scope of Services, the Consultant is responsible for preparing or obtaining new surveys of the land and utility locations under consideration for the Project.
- (6) To provide structural, mechanical, chemical, air and water tests, tests for hazardous materials, and other laboratory and environmental tests, inspections and reports required by law to be provided by the MGNWC in connection with the Services, except to the extent such tests, inspections or reports are part of the Services.
- (7) To review reports, documents, data and all other information presented by the Consultant as appropriate in a timely manner and to provide responses within five (5) calendar days of receipt.
- (8) To provide approvals from all governmental authorities having jurisdiction over the Services when requested by the Consultant, except to the extent such approvals are part of the Services.
- (9) To attend meetings related to the Services.
- (10) To give prompt written notice to the Consultant whenever the MGNWC or one of the MGNWC Affiliates observes or otherwise becomes aware of any development that affects the scope or timing of Services, except that the inability or failure of the MGNWC or one of the MGNWC Affiliates to give any such a notice will not relieve the Consultant of any of its responsibilities under this Agreement.

SECTION 8. INDEMNIFICATION

A. Indemnification by Consultant.

- (1) **MGNWC.** To the fullest extent permitted by law, the Consultant shall defend, hold harmless and indemnify the MGNWC and the MGNWC Affiliates from and against any and all injury, death, loss, property damage, judgments, liens, claims, suits, liabilities, actions, causes of action, demands, expenses, costs or other liabilities of any character (including reasonable attorney fees and litigation costs) to the extent arising in whole or in part, relating to or resulting from the performance under this Agreement by the Consultant and/or its employees and its sub-consultants and sub-contractors, or others performing or furnishing any Services directly or indirectly on the Consultant's behalf, including but not limited to: (a) failure to comply with, or violation of, any federal, state or local law, statute, regulation, rule, ordinance, order or governmental directive; (b) negligent acts, omissions or willful misconduct; and (c) failure to comply with the terms, conditions, representations or warranties contained in this Agreement.

In connection with any such liabilities, the MGNWC and the MGNWC Affiliates shall have the right to defense counsel of their choice and the Consultant shall be solely liable for all reasonable costs, fees and expenses of such defense. Any insurance policies required to be maintained pursuant to this Agreement shall in no way limit the extent of the Consultant's responsibility to indemnify as herein provided. The terms of this indemnity shall survive the suspension, expiration or termination of this Agreement.

- (2) **Morton Grove.** To the fullest extent permitted by law, the Consultant shall defend, hold harmless and indemnify the Village of Morton Grove and Morton Grove Affiliates from and against any and all injury, death, loss, property damage, judgments, liens, claims, suits, liabilities, actions, causes of action, demands, expenses, costs or other liabilities of any character (including reasonable attorney fees and litigation costs) to the extent arising in whole or in part, relating to or resulting from the performance under this Agreement by the Consultant and/or its employees and its sub-consultants and sub-contractors, or others performing or furnishing any Services directly or indirectly on the Consultant's behalf, including but not limited to: (a) failure to comply with, or violation of, any federal, state or local law, statute, regulation, rule, ordinance, order or governmental directive; (b) negligent acts, omissions or willful misconduct; and (c) failure to comply with the terms, conditions, representations or warranties contained in this Agreement. In connection with any such liabilities, the Village of Morton Grove and the Morton Grove Affiliates shall have the right to defense counsel of their choice and the Consultant shall be solely liable for all reasonable costs, fees and expenses of such defense. Any insurance policies required to be maintained pursuant to this Agreement shall in no way limit the extent of the Consultant's responsibility to indemnify as herein provided. The terms of this indemnity shall survive the suspension, expiration or termination of this Agreement.
- (3) **Niles.** To the fullest extent permitted by law, the Consultant shall defend, hold harmless and indemnify the Village of Niles and Niles Affiliates from and against any and all injury, death, loss, property damage, judgments, liens, claims, suits, liabilities, actions, causes of action, demands, expenses, costs or other liabilities of any character (including reasonable attorney fees and litigation costs) to the extent arising in whole or in part, relating to or resulting from the performance under this Agreement by the Consultant and/or its employees and its sub-consultants and sub-contractors, or others performing or furnishing any Services directly or indirectly on the Consultant's behalf, including but not limited to: (a) failure to comply with, or violation of, any federal, state or local law, statute, regulation, rule, ordinance, order or governmental directive; (b) intentional or negligent errors, acts, omissions or willful misconduct; and (c) failure to comply with the terms, conditions, representations or warranties contained in this Agreement. In connection with any such liabilities, the Village of Niles and the Niles Affiliates shall have the right to defense counsel of their choice and the Consultant shall be solely liable for all reasonable costs, fees and expenses of such defense. Any insurance policies required to be maintained pursuant to this Agreement shall in no way limit the extent of the Consultant's responsibility to indemnify as herein provided. The terms of this indemnity shall survive the suspension, expiration or termination of this Agreement.
- (4) **Kotecki Waiver.** The Consultant (and all sub-consultants and sub-contractors into whose subcontract this clause is incorporated) agrees to assume the entire liability for all personal injury claims suffered by its own employees and waives any limitation of liability defense based upon the Worker's Compensation Act and cases decided thereunder. The Consultant agrees to indemnify and defend MGNWC and the MGNWC Affiliates, the Village of Morton Grove and the Morton Grove Affiliates, and the Village of Niles and the Niles Affiliates from and against all such loss, expense, damage or injury, including reasonable attorney fees, which MGNWC and the MGNWC Affiliates, the Village of Morton Grove and the Morton Grove Affiliates, and the Village of Niles and the Niles Affiliates may sustain as a result of personal injury claims by the Consultant's employees and by the sub-consultants and sub-contractors and their respective employees, except to the extent those claims arise as a result of MGNWC's and the MGNWC Affiliates'

own negligence, the Village of Morton Grove's and the Morton Grove Affiliates' own negligence, and the Village of Niles' and the Niles Affiliates' own negligence.

- C. **No Personal Liability.** No elected or appointed official or employee of Cook County and the Cook County Affiliates, the MGNWC and the MGNWC Affiliates, the Village of Morton Grove and the Morton Grove Affiliates, and the Village of Niles and the Niles Affiliates shall be personally liable, in law or in contract, to the Consultant as the result of the execution of this Agreement. No employee of the Consultant, sub-consultants, and sub-contractors shall be personally liable, in law or in contract, to the MGNWC as the result of the execution of this Agreement.

SECTION 9. INSURANCE.

- A. During the Term of this Agreement, or any extended term, the Consultant shall procure and maintain the following insurance coverages: See **Attachment E** attached to this Agreement.

SECTION 10. CONFIDENTIAL INFORMATION; OWNERSHIP OF DOCUMENTS.

- A. **No Disclosure of Confidential Information.** The Consultant acknowledges that it shall, in performing the Services for the MGNWC under this Agreement, have access, or be directly or indirectly exposed, to Confidential Information, as defined below. The Consultant shall hold confidential all Confidential Information of the MGNWC and Morton Grove and Niles and shall not disclose or use such Confidential Information without the express prior written consent of the MGNWC, Morton Grove or Niles, depending on whose Confidential Information is at issue. 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 its employees and sub-consultants and sub-contractors of the Consultant to execute a non-disclosure agreement (in a format approved by the MGNWC) before obtaining access to Confidential Information.
- (1) **Confidential Information.** All confidential information and data disclosed by the MGNWC and developed or obtained from the MGNWC under this Agreement must be treated by the Consultant as proprietary and confidential information ("Confidential Information"). Based on whose Confidential Information is at issue, the Consultant must not disclose Confidential Information without the MGNWC's or Morton Grove's or Niles' prior written consent. No person may use Confidential Information for any purpose other than for the proper performance of the Services. The obligations under this Section do not apply to Confidential Information that is (i) in the public domain without breach of this Agreement, (ii) developed by the Consultant independently from this Agreement, (iii) received by the Consultant on a non-confidential basis from others who had a right to disclose the information, or (iv) required by law to be disclosed, but only after prior written notice has been received by the MGNWC or Morton Grove or Niles and the MGNWC or Morton Grove or Niles has had a reasonable opportunity to protect disclosure of the Confidential Information. The Consultant must ensure that the foregoing obligations of confidentiality and use extend to and bind the Consultant's employees, sub-consultants and sub-contractors.
- B. **Ownership of Data and Documents.** The Parties expressly agree that all data, documents, records, studies or other information (collectively "Data") provided by the MGNWC to the Consultant or generated, created, found or otherwise completed by the Consultant, and its employees, sub-consultants and sub-contractors, in the performance of Consultant's Services under the terms of this Agreement shall at all times remain the proprietary information of and under the ownership of the MGNWC and shall be provided to the MGNWC by the Consultant upon request of the MGNWC, or at the termination of this Agreement. All Data, regardless of its format, developed or obtained under this Agreement, other than the Consultant's confidential information, will be and remain the sole property of the MGNWC, unless the MGNWC agree that certain portions of the Data is the sole property of either Morton Grove or Niles. The Consultant must promptly deliver all Data to the MGNWC at the MGNWC's request. The Consultant is

responsible for the care and protection of the Data until that delivery. The Consultant may retain one or more copies of the Data. Notwithstanding the foregoing, upon request of the MGNWC at any time, or at the termination of this Agreement, the Consultant shall promptly return to the MGNWC all documents provided to the Consultant by the MGNWC during the Term of this Agreement.

- C. **Intellectual Property.** The Consultant may not infringe on any intellectual property (including but not limited to patents, trademarks, or copyrights) (collectively "Intellectual Property") in the performance of Services. If ever the Consultant is alleged to have infringed on any Intellectual Property, then, in addition to the Consultant's obligations to indemnify the MGNWC under this Agreement, the Consultant also, at the sole discretion of the MGNWC and at the Consultant's sole expense (a) procure for the MGNWC the right to continue using the infringing subject matter, or (b) replace or modify the infringing subject matter so that it becomes non-infringing but still complies with the requirements of this Agreement, or (c) reimburse the MGNWC for all payments made to the Consultant relating to or impacted by the infringing material and all costs incurred by the MGNWC resulting from such infringement.
- D. **Copyrights and Patents.** The Consultant agrees not to assert, or to allow persons performing under the Consultant's control to assert, any rights to Data or establish any claim under design, patent, or copyright laws. It is expressly agreed that all copyrightable or patentable Data produced as part of Services has been specifically commissioned by the MGNWC and is considered "work for hire," and that all copyrightable and other proprietary rights in that Data will vest solely in the MGNWC. Further, the Consultant agrees that all rights under copyright and patent laws under this Agreement belong to the MGNWC. The Consultant assigns any and all rights, title, and interests under copyright, trademark, and patent law to the MGNWC and agrees to assist the MGNWC in perfecting the same at the MGNWC's expense.
- E. **Advertisements; Media / News Releases; Use of Letterhead or Logo.** The Consultant, and its employees, sub-consultants and sub-contractors, shall not issue any media news releases, advertisements, promotional materials or other public statements regarding the Services without the prior written consent of the MGNWC Working Group. The Consultant shall not use the letterhead or logo or any servicemark or trademark of Morton Grove without the prior written consent of the Village Administrator of Morton Grove and shall not use the letterhead or logo or any servicemark or trademark of Niles without the prior written consent of the Village Manager of Niles.

SECTION 11. COMPLIANCE WITH LAWS.

- A. **Compliance with Laws.** The Consultant, and its employees, sub-consultants and sub-contractors, shall comply with any and all applicable laws, regulations and rules promulgated by any Federal, State, County, local, or other governmental authority or regulatory body pertaining to all aspects of the Services, now in effect, or which may become in effect during the performance of the Services. The scope of the laws, regulations and rules referred to in this paragraph includes, but is in no way limited to, the Occupational Safety and Health Act standards, the Illinois Human Rights Act, the Illinois Equal Pay Act of 2003, along with the standards and regulations promulgated pursuant thereto (including but not limited to those safety requirements involving work on elevated platforms), all forms of traffic regulations, public utility, Interstate and Intrastate Commerce Commission regulations, Workers' Compensation Laws, the Substance Abuse Prevention on Public Works Projects Act, Prevailing Wage Laws, the Smoke Free Illinois Act, the USA Security Act, the Federal Social Security Act (and any of its titles), and any other law, rule or regulation of the Illinois Department of Labor, Illinois Department of Transportation, Illinois Environmental Protection Act, Illinois Department of Human Rights, Human Rights Commission, EEOC, Metropolitan Water Reclamation District of Greater Chicago, the Village of Morton Grove and the Village of Niles. In the event that the Consultant, or its employees, sub-consultants and sub-contractors, in performing the Services are found to have not complied with any of the applicable laws and regulations as required by this Agreement, then the Consultant shall indemnify and hold the MGNWC harmless, and pay all

amounts determined to be due from the MGNWC for such non-compliance by the Consultant, including, but not limited to fines, costs, attorneys' fees and penalties.

- (1) **Employment of Illinois Workers on Public Works Act Compliance.** To the extent required by law, the Consultant agrees to comply with the provisions of the Employment of Illinois Workers on Public Works Act (30 ILCS 570/0.01 *et seq.*).
 - (2) **Preference To Veterans Act Compliance.** The Consultant will comply with the Preference to Veterans Act (330 ILCS 55).
 - (4) **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.
- B. The Parties to this Agreement shall further comply with all applicable federal, state and local laws, rules and regulations in carrying out the terms and conditions of this Agreement, including the following:
- (1) **Certification.** Each Party and its officers, corporate authorities, employees and agents certify that they are not barred from entering into this Agreement as a result of a violation of either 720 ILCS 5/33E-3 or 5/33E-4 (bid rigging or bid rotating) or 5/33E-6 (interference with contract submission and award by public official) or as a result of a violation of 820 ILCS 130/1 *et seq.* (the Illinois Prevailing Wage Act) or as a result of: (1) a delinquency in the payment of any tax administered by the Illinois Department of Revenue or any fee required by any unit of local government or the State, unless the Party is contesting, in accordance with the procedures established by the appropriate revenue act, its liability for the tax or the amount of the tax or the fee, 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.* Each Party and its officers, corporate authorities, employees and agents further certify by signing this Agreement that the Party and its officers, corporate authorities, employees and agents have not been convicted of, or are not barred for attempting to rig bids, price-fixing or attempting to fix prices as defined in the Sherman Anti-Trust Act and Clayton Act. 15 U.S.C. § 1 *et seq.*; and has not been convicted of or barred for bribery or attempting to bribe an officer or employee of a unit of state or local government or school district in the State of Illinois in that officer's or employee's official capacity. Nor has any of the Parties and their officers, corporate authorities, employees and agents made admission of guilt of such conduct which is a matter of record, nor has any official, officer, agent or employee of the Parties been so convicted nor made such an admission.
 - (2) **Non-Discrimination.** Each Party and its officers, corporate authorities, employees and agents agree not to commit unlawful discrimination and agree to comply with all applicable provisions of the Illinois Human Rights Act, Title VII of the Civil Rights Act of 1964, as amended, the

Americans with Disabilities Act, the Age Discrimination in Employment Act, Section 504 of the Federal Rehabilitation Act, and all applicable rules and regulations. Each Party maintains a written Sexual Harassment Policy in compliance with Section 2-105 of the Illinois Human Rights Act (775 ILCS 5/2-105(A)(4)). Each Party certifies that it is an "Equal Opportunity Employer" as defined by federal and State laws and regulations, and agrees to comply with the Illinois Department of Human Rights ("IDHR") Equal Opportunity Employment clause as required by the IDHR's Regulations (44 Ill. Adm. Code, Part 750, Appendix A). As required by Illinois law and IDHR Regulation, the Equal Opportunity Employment clause is incorporated by reference in its entirety as though fully set forth herein. Each Party certifies that it agrees to comply with the Prohibition of Segregated Facilities clause, which is incorporated by reference in its entirety as though fully set forth herein. See, *Illinois Human Rights Act (775 ILCS 5/2-105)*. See also, *Illinois Department of Human Rights Rules and Regulations, Title 44, Part 750. Administrative Code, Title 44: Government Contracts, Procurement and Property Management, Subtitle B: Supplemental Procurement Rules, Chapter X: Department of Human Rights, Part 750: Procedures Applicable to All Agencies, Section 750.160: Segregated Facilities (44 Ill. Adm. Code 750.160)*

- (3) **Illinois Freedom of Information Act.** The definition of a public record in the Freedom of Information Act (5 ILCS 140/1 *et seq.*) ("FOIA") includes a "public record that is not in the possession of a public body but is in the possession of a party with whom the agency has contracted to perform a governmental function on behalf of the public body and that directly relates to the governmental function and is not otherwise exempt under this Act." (5 ILCS 140/7(2)). Consequently, the Parties must maintain and make available to the other Parties, upon request, their public records relating to the performance of this Agreement in compliance with the requirements of the Local Records Act (50 ILCS 205/1 *et seq.*) and FOIA. To facilitate a response by the MGNWC to any FOIA request, the Consultant agrees to provide all requested public records within five (5) business days of a request being made by MGNWC. The Consultant agrees to defend, indemnify and hold harmless MGNWC and the MGNWC Affiliates, Morton Grove and the Morton Grove Affiliates and Niles and the Niles Affiliates, and agrees to pay all reasonable costs connected therewith (including, but not limited to, reasonable attorney and witness fees, filing fees and any other expenses) for the MGNWC, Morton Grove and/or Niles to defend any and all causes, actions, causes of action, disputes, prosecutions or conflicts arising from the Consultant's actual or alleged violation of the FOIA or the Consultant's failure to furnish all public records as requested by the MGNWC. Furthermore, should the Consultant request that the MGNWC utilize a lawful exemption under FOIA in relation to any FOIA request thereby denying that request, the Consultant agrees to pay all costs connected therewith (such as reasonable attorney and witness fees, filing fees and any other expenses) to defend the denial of the request. The defense shall include, but not be limited to, challenged or appealed denials of FOIA requests to either the Illinois Attorney General or a court of competent jurisdiction. The Consultant agrees to defend, indemnify and hold harmless MGNWC and the MGNWC Affiliates, Morton Grove and Morton Grove Affiliates and Niles and Niles Affiliates, and agrees to pay all costs incurred by the MGNWC, Morton Grove and/or Niles connected therewith (such as reasonable attorney and witness fees, filing fees, penalties, fines, and any other expenses) to defend any denial of a FOIA request pursuant to the Consultant's request to utilize a lawful exemption.

C. **Consultant Representations.**

- (1) **No Collusion.** The Consultant represents and certifies that the Consultant is not barred from contracting with a unit of State or local government as a result of: (1) a delinquency in the payment of any tax administered by the Illinois Department of Revenue or any fee required by the Village of Morton Grove and the Village of Niles, 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 or the fee, as set forth in Section 11-42.1-1 *et seq.* of the Illinois Municipal Code, 65 ILCS 5/11-42.1-1 *et seq.*; or (2) a violation of either Section 33E-3 or Section 33E-4 of Article 33E of the Criminal Code of 1961, 720 ILCS 5/33E-1 *et seq.* The Consultant represents that the only persons, firms or corporations interested in this Agreement as principals are those disclosed to the MGNWC 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 Village of Morton Grove and/or the Village of Niles for any loss or damage that the Village of Morton Grove and/or the Village of Niles may suffer, and this Agreement shall, at the MGNWC's option, be null and void.

(2) **Conflict of Interest.**

- (a) The Consultant represents and certifies that, to the best of its knowledge: (1) no MGNWC, Cook County, Morton Grove or Niles employee or agent is interested in the business of the Consultant or this Agreement; (2) as of the date of this Agreement, neither the Consultant nor any person employed or associated with the Consultant has any interest that would conflict in any manner or degree with the performance of the obligations under this Agreement; and (3) neither the Consultant nor any person employed by or associated with the Consultant shall at any time during the Term of this Agreement obtain or acquire any interest that would conflict in any manner or degree with the performance of the obligations under this Agreement.
- (b) The Consultant agrees to perform no professional services during the Term of this Agreement for any person, firm or corporation, for any project or work that may be subject to review/inspection by Morton Grove or Niles, to occur or occurring within the corporate limits of Morton Grove or Niles without notification to Morton Grove and/or Niles prior to rendering services. The Consultant agrees to provide the MGNWC with written notification whenever the Services provided under this Agreement shall require the Consultant to review a project, business or work performed by any other firm or corporation for whom the Consultant is or has within the previous twelve (12) months provided professional services, or with any of the Consultant's partners or principals that have a financial interest.

- (3) **Compliance with Laws, Grant Regulations.** All Services must be provided, performed, and completed in accordance with all required governmental permits, licenses, or other approvals and authorizations, and with applicable statutes, ordinances, rules, and regulations. The Consultant also must comply with applicable conditions of any federal, state, or local grant received by the MGNWC with respect to this Agreement. The Consultant will be solely responsible for any fines or penalties that may be imposed or incurred by a governmental agency with jurisdiction over the Services as a result of the Consultant's improper performance of, or failure to properly perform, any Services.

SECTION 12. DEFAULT AND TERMINATION OF SERVICES.

- A. This Agreement is at-will and may be terminated by the MGNWC at any time at MGNWC'S convenience, without reason or cause. If the MGNWC terminates this Agreement without reason or cause, then the MGNWC will liable to the Consultant only for payment of all actual, completed, documented Services through the date of termination. The Consultant shall not be entitled to Compensation of any kind, including without limitation for lost profit, for any Services not performed by the Consultant.
- B. **Termination by MGNWC for Breach.** MGNWC at any time, by written notice, may terminate this Agreement because breach by the Consultant and failure of the Consultant to cure the breach within

ten (10) calendar days after that written notice or such further time as the MGNWC may agree, in the MGNWC's sole discretion, in response to a written notice from the Consultant seeking additional time to cure. "Breach" by the Consultant includes (a) failure of the Consultant to adhere to any terms or conditions of this Agreement, (b) failure of the Consultant to properly perform Services, (c) failure of the Consultant to maintain progress in the performance of Services so as to endanger proper performance of the Services within the Project Schedule, or (d) failure of the Consultant to have or maintain adequate financial or legal capacity to properly complete any Services.

- C. **MGNWC Remedies.** If the MGNWC terminates this Agreement for Breach by the Consultant, then the MGNWC will have the right, at its election and without prejudice to any other remedies provided by law or equity, to pursue any one or more of the following remedies:
- (1) MGNWC may recover from the Consultant any and all costs, including without limitation reasonable attorneys' fees, incurred by the MGNWC as the result of any Breach or as a result of actions taken by MGNWC in response to any Breach.
 - (2) MGNWC may withhold any or all outstanding Compensation to reimburse itself or pay for any and all costs, including without limitation reasonable attorneys' fees, incurred by the MGNWC as the result of any Breach or as a result of actions taken by the MGNWC in response to any Breach. In that event, the MGNWC will pay any excess funds to the Consultant, if any, after all of the MGNWC's costs are reimbursed or paid. If the Compensation withheld by the MGNWC is insufficient to reimburse the MGNWC for, or pay, all costs, then the MGNWC will have the right to recover directly from the Consultant a sum of money sufficient to reimburse itself, or pay, all remaining costs.
- D. **Termination for Convenience.** If, after termination of this Agreement by the MGNWC for breach, it is determined that the Consultant was not in breach or that the termination otherwise was irregular or improper, then the termination shall be deemed to have been made for the convenience of the MGNWC under this Section 12.
- E. **Termination by Consultant for Breach.** The Consultant at any time, by written notice, terminate this Agreement on account of a failure by the MGNWC to adhere to any terms or conditions of this Agreement and a failure of the MGNWC to cure the breach within ten (10) calendar days after that written notice or such further time as the Consultant may agree, in the Consultant's sole discretion, in response to a written notice from the MGNWC seeking additional time to cure.
- F. **Termination by Consultant without Cause.** The Consultant shall not terminate this Agreement without cause.

SECTION 13. GENERAL PROVISIONS.

- A. **Amendment.** No amendment or modification to this Agreement shall be effective until it is reduced to writing and approved by the MGNWC Board and executed by the MGNWC Chair and the Consultant.
- B. **Assignment.** The Consultant shall not assign this Agreement or any portion thereof without the prior written approval of the MGNWC Board, which shall not be unreasonably withheld. The merger, consolidation or liquidation of the Consultant or any change in the ownership of or power to vote equal to twenty percent (20%) or more of the Consultant's capital stock, as held as of the date of execution of this Agreement, shall be deemed an assignment; provided, however, that the transfer of ownership of shares of capital stock between persons who, on the date of this Agreement, are owners of the Consultant's capital stock or who are employees of Consultant, shall not constitute an assignment. As part of the written notice of assignment sent to the Consultant, an addendum to this Agreement that memorializes the assignment shall be prepared and sent to the Consultant for execution.

- C. **Binding Effect.** The terms of this Agreement shall bind and inure to the benefit of the MGNWC and the Consultant, and their agents, successors and assigns.
- D. **Notice.** All notices required or permitted to be given under this Agreement shall be in writing and shall be delivered: (1) by personal delivery; (2) by a reputable overnight courier; (3) by certified mail, return receipt requested, and deposited in the U.S. Mail, postage prepaid; or (4) by email delivery to the Party's business email 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 (1) business day after deposit with an overnight courier, as evidenced by a receipt of deposit; (c) four (4) business days following deposit in the U.S. mail, as evidenced by a return receipt; or (d) date of delivery of the email. By notice complying with the requirements of this Section 13.D., each Party shall have the right to change the address or the addressee, or both, for all future notices and communications to the other Party, but no notice of a change of addressee or address shall be effective until actually received.

Notices and communications to the MGNWC with copies to the MGNWC Working Group shall be addressed to, and delivered at, the following addresses:

Bill Balling, MGNWC Superintendent,
 1000 Civic Center Dr.
 Niles, IL 60714
 Cellular Phone: (847) 863-7101
 Office Phone: (847) 398-8399
 Email: bill@wrblc.com

With a copy to:
 Teresa Hoffman Liston, MGNWC
 6101 Capulina Avenue,
 Morton Grove, IL 60053
 Direct: 847-663-3001
 Mobile 847-917-5416
 Email: tliston@mortongroveil.org

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

Bob Ivarson
 HNTB Corporation
 1 S. Wacker Dr. Suite 900
 Chicago, IL 60606
 Phone: 312-798-0303
 Email: RIvarson@HNTB.com

With a copy to: Legal Department
 HNTB Corporation
 1 S. Wacker Dr. Suite 900
 Chicago, IL 60606
 Phone: 312-798-0303


- E. **Third Party Beneficiary.** No claim as a third-party beneficiary under this Agreement by any person, firm or corporation shall be made or be valid against MGNWC and the MGNWC Affiliates, Morton Grove and Morton Grove's Affiliates and Niles and Niles' Affiliates.

- 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 all terms and provisions of this Agreement.
- H. **Calendar Days and Time.** Unless otherwise provided in this Agreement, any reference in this Agreement to "day" or "days" shall mean calendar days and not business days. If the date for giving of any notice required to be given, or the performance of any obligation, under this Agreement falls on a Saturday, Sunday or federal holiday, then the notice or obligation may be given or performed on the next business day after that Saturday, Sunday or federal holiday.
- I. **Venue and Governing Law.** All questions of interpretation, construction and enforcement, and all controversies with respect to this Agreement, shall be governed by the applicable constitutional, statutory and common law of the State of Illinois. The Parties agree that, for the purpose of any litigation relative to this Agreement and its enforcement, venue shall be in the Circuit Court of Cook County, Illinois or the Northern District of the United States District Court, Chicago, Illinois, and the Parties consent to the jurisdiction of said Courts for any such action or proceeding.
- J. **Authority to Execute.**
- (1) **MGNWC Water Commission.** The MGNWC warrants and represents to the Consultant that the persons executing this Agreement on its behalf have been properly authorized to do so by its corporate authorities.
 - (2) **The Consultant.** The Consultant warrants and represents to the MGNWC that the persons executing this Agreement on its behalf have the full and complete right, power and authority to enter into this Agreement and to agree to the terms, provisions and conditions set forth in this Agreement, and that all legal actions needed to authorize the execution, delivery and performance of this Agreement have been taken.
- K. **Entire Agreement.** This Agreement constitutes the entire agreement between the Parties to this Agreement and supersedes all prior agreements and negotiations between the Parties, whether written or oral, relating to the subject matter of this Agreement.
- L. **Waiver.** The failure of either Party to enforce any term, condition or covenant (herein referred to as "provision") of this Agreement shall not be deemed a waiver or limitation of that Party's right to subsequently enforce and compel strict compliance with such provision and every other provision of this Agreement. No provision of this Agreement shall be deemed to have been waived by either Party unless such waiver is in writing by said Party.
- M. **Survival.** The aforesaid covenants, agreements, representations and warranties shall survive the expiration or termination of this Agreement.
- N. **Counterpart Execution.** This Agreement may be executed in 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.
- O. **Cumulative Rights and Remedies.** 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 rights, remedies, and benefits allowed by law.
- P. **Effective Date.** This Agreement shall become effective on the date the last signatory signs this Agreement.

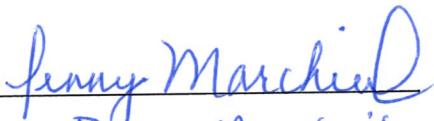
IN WITNESS WHEREOF, this Agreement was executed on behalf of the Parties through their authorized representatives, after all duly required corporate action was taken, as set forth below on the signature pages.

**SIGNATURE PAGE FOR
CONSULTANT**

IN WITNESS WHEREOF, the below authorized corporate officer of HNTB Corporation signed this Agreement pursuant to legal authority and direction granted to him/her by the required corporate action.

HNTB Corporation
By: 
Name: DAVID P. CROSSON
Title: SN. VICE PRESIDENT
Date: OCT 4, 2017

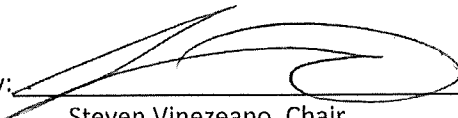
Attest:

By: 
Name: Penny Marchie
Title: Sr. Project Analyst
Date: 10/4/, 2017

**SIGNATURE PAGE FOR
MORTON GROVE-NILES WATER COMMISSION**

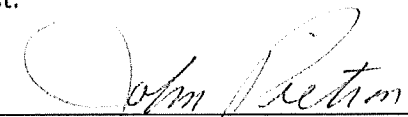
IN WITNESS WHEREOF, the below authorized officials of the Morton Grove-Niles Water Commission have signed this Agreement pursuant to legal authorization granted to him/her under Article VII, Section 10 of the 1970 Illinois Constitution, the Intergovernmental Cooperation Act (5 ILCS 220/1 *et seq.*) and Division 135 of Article 11 of the Illinois Municipal Code (65 ILCS 5/11-135-1, *et seq.*) ("Division 135") and the corporate approval granted by passage of a Resolution by the Corporate Authorities of the Morton Grove-Niles Water Commission.

Morton Grove-Niles Water Commission

By: 
Steven Vinezeano, Chair

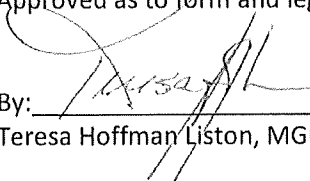
Date: 9/22, 2017.

Attest:

By: 
John Pietron, Clerk/Secretary

Date: 9/22, 2017

Approved as to form and legality:

By: 
Teresa Hoffman Liston, MGNWC General Counsel

Attachment A

Morton Grove-Niles Water Commission (MGNWC), Request for Proposals, entitled
"RFP Independent Engineering Design Review for Water Delivery System" dated September 16, 2017

Morton Grove Niles WATER COMMISSION

September 15, 2017

Mr. W. Robert Ivarson
Practice Director, Water Resources
HNTB Corporation
One South Wacker Drive
Suite 900
Chicago, IL 60606

Via email: rivarson@hntb.com

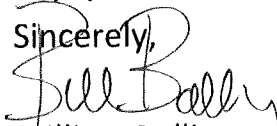
SUBJECT: MGNWC request for proposal for design service review

Mr. Ivarson,

Thank you very much for the time you and Mr. Joseph Catalano afforded the Morton Grove-Niles Water Commission Management Team on September 12, 2017 to discuss the MGNWC needs for design review services. We are interested in receiving a proposal from you for this work and I have attached a Request For Proposal to be used for preparing your response. We are under a very tight time schedule as you know and would like your response by end of day September 20 so the MGNWC can consider a contract as a September 22, 2017 Special Meeting of the Commission.

Please contact me by cell phone (847) 863-7101 or email (Bill@wrblc.com) with any questions.

Sincerely,



William Balling

MGNWC Superintendent

REQUEST FOR PROPOSAL
Independent Engineering Design Review Services
for a Water Delivery System

Morton Grove-Niles Water Commission (MGNWC)
Attention: William Balling Superintendent
1000 Civic Center Drive
Niles, Illinois 60714

MGNWC Project Overview and Status:

The Villages of Morton Grove and Niles have been working cooperatively to identify the lowest cost and highly reliable potable Lake Michigan water supplier and has identified the City of Evanston as the preferred water supplier. A long term water supply Agreement with Evanston has been completed. Both Villages have been sharing in the water supply project development study costs on a 50/50 basis and in July 2017 formed the Morton Grove-Niles Water Commission (MGNWC) to implement the water supply objectives through the construction of a new water delivery system. That system has been identified as approximately eight miles of new 30" and 20" water main, rehabilitation of portions of existing water mains currently in use by Morton Grove, construction of an intermediate booster pumping station in the Village of Skokie, and construction of a seven million gallon reservoir and main pump station located in the Village of Morton Grove.

A Management Team, consisting of the Village Managers, and the Village Attorneys serves as the executive committee to the MGNWC, and the Village Engineers and Public Works Directors serve as the technical Operational Team providing input to the Management Team. The MGNWC Superintendent supports both teams as does special legal counsel, a financial advisor, and the Village's Finance Directors who also provide technical support.

Stanley Consultants has been retained for various engineering work including modeling and early preliminary studies, and was awarded through a competitive selection process to complete the Project Development Report (Draft completed June 2, 2017), and for the Design Engineering (to be completed and submitted to the IEPA September 15, 2017). Stanley through their own internal resources, and with their own sub-contractor partners, have utilized internal quality control review and practices throughout the design phase of the project.

MGNWC expects comments returned and approvals by the IEPA in time to solicit construction bids on November 1, 2017 with bids due December 15, 2017 and awarded in early January 2018. Construction is planned to commence in late January and pre-purchase of pipe is expected to be authorized in December, 2017. The system is intended to be operational and delivering water in December, 2018 and fully completed by mid-2019. Initial bond financing by the MGNWC will couple to this schedule.

Design Review Objectives:

MGNWC seeks an independent review of the project development report and the engineering design to confirm design elements and assumptions associated with the Stanley work, and to point out if necessary, recommendations to consider to modify the design and programming of this project. Design review feedback is needed as soon as issues are identified in order for MGNWC to consider changes, if any, to the project before the bid solicitation date of November, 2017. While MGNWC expects the independent design review to follow professional standards and practices related to quality control review, the independent consultant work should include comment on the following elements:

1. Review of the Project Development Report on core assumptions and routing. MGNWC to date has been working closely with Skokie to identify their preferred route through Skokie. Review proposed system for redundancy and expected reliability. Review WaterCAD hydraulic model and confirm operational assumptions and expected level of service.

2. Overall project scope and completeness.
3. Overall project design assumptions including core design, plans, and specifications. Review bidding strategy and verify cost effectiveness of bidding schedule.
4. Review of estimated project cost, now estimated at the 75% engineering completion level, as \$99,000,000 with all in costs.
5. Construction work launch and completion schedule review for completion in 2018.
6. Perform constructability review and provide value engineering recommendations.
7. Obtain input from partners with operational experience. Review finished product for potential operational challenges.
8. Perform detailed QC technical review of plans and specifications prior to project bid advertisement. Review and confirm design team responses to owners previous comments. All of HNTB's comments shall be identified as whether or not they are recommended for inclusion in an addendum.
9. All comments shall be prepared using the standard project comment form and/or via blue beam with comment marked directly on PDF copy of plans. Comments marked directly on the plans shall also be accompanied by the standard project comment form with reference made to the markup, this will facilitate the design team response.
9. Any other commentary on key assumptions of the project program assumptions used to develop this work program.

The Project Development Report (route study), Water CAD model, 75% design drawings, specifications, and sample review sheet are provided to you in digital format to assist with the scoping of the work. In actuality, HNTB will be asked to review the 95% version of the plan set issued 9/15/17.

Commercial Terms of Engagement:

MGNWC intends to award a contract on September 22, 2017 for these design review services as follows:

1. Consultant design review costs to be billed on a time and materials basis with a not to exceed price as an element of the proposal. The format of the proposal should be a IDOT cost plus fixed fee type proposal.
2. Ability to launch the design review work as early as September 22,2017 and completion of the work by October 27,2017. Any identified critical issues shall be brought to the attention of the owner as soon as they are identified. Complete first pass big picture review for fatal flaws by October 13th, 2017.
3. Interim observations should be reported to MGNWC as they are identified so that they may be addressed.
4. End of work design review memorandum documenting all recommendations should be prepared and presented to MGNWC by the end of the engagement.

RFQ Response:

Please return you proposal response by 5:00 pm Wednesday September 20, 2017 via email to William Balling, MGNWC Superintendent at Bill@wrblc.com. Contact William Balling with any questions directly by phone or email. The best contact number is Phone: (847) 863 -7101. Please include in your response information related to similar experience to the MGNWC water delivery project design and construction.

MGNWC
Engineering Response to Request for Proposal
for water delivery system design review services
September, 2017

1. Not to exceed amount for engagement: \$

2. Time and materials cost component and schedule: (attached)

3. Project team leader for design services review with summary biography:
(Attached)

4. Anticipated support personnel needed to complete work and summary
biography of support team personnel: (Attached)

5. Sample of engagement agreement template for engagement: (attached)

Attachment B

Consultant's Proposal for Services regarding the MGNWC RFP, dated September 2, 2017

HNTB Corporation
The HNTB Companies
Infrastructure Solutions

One South Wacker Drive
Suite 900
Chicago, IL 60606

Telephone (312) 930-9119
Facsimile (312) 930-9063
www.hntb.com

HNTB

September 20, 2017

William Balling
MGNWC Superintendent
1000 Civic Center Drive
Niles, IL 60714

Subject: Design Review Services Term Agreement

Dear Mr. Balling:

Attached herewith is our proposal for Design Review Services:

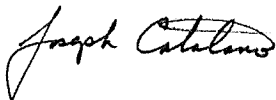
- Scope of Work in response to your RFP,
- Resumes of Key Personnel,
- Level of Effort Estimate for Cost Plus Fixed Fee Contract,
- Schedule Commitment,
- Signed contract, for your signature

We have written the scope based upon your Request for Proposal dated September 14, 2017. The fee estimate is based on discussions in your office regarding level of effort.

We appreciate the opportunity to serve the MGNWC on this very important project.

If you have any questions or comments, please contact me or Bob Ivarson at your convenience.

Very truly yours,



Joseph R. Catalano, PE
Vice President



W. Robert Ivarson, PE, D.WRE
Practice Director, Water Resources

AGREEMENT FOR PROFESSIONAL SERVICES

THIS AGREEMENT is entered into between Morton Grove-Niles Water Commission (Owner) and HNTB Corporation (HNTB), for the following reasons:

1. Owner requires and independent review of the project development report and the engineering design to confirm design elements of a new water delivery system (the Project); and,
2. Owner requires certain professional engineering consulting services in connection with the Project (the Services); and,
3. HNTB is prepared to provide the Services.

In consideration of the promises contained in this Agreement, Owner and HNTB agree as follows:

ARTICLE 1 - EFFECTIVE DATE

The effective date of this Agreement shall be September 22, 2017.

ARTICLE 2 - GOVERNING LAW

This Agreement shall be governed by the laws of the State of Illinois.

ARTICLE 3 - SCOPE OF SERVICES

HNTB shall provide the Services described in Attachment A, Scope of Services.

ARTICLE 4 - SCHEDULE

HNTB shall exercise its reasonable efforts to perform the Services described in Attachment A according to the Schedule set forth in Attachment B.

ARTICLE 5 - COMPENSATION

A. Owner shall pay HNTB in accordance with Attachment C, Compensation. Notwithstanding anything to the contrary contained herein or in the Compensation attachment, HNTB may alter the compensation distribution between individual phases, tasks or work assignments to be consistent with the Services actually rendered, within the total authorized amount set forth herein.

B. HNTB shall invoice Owner at a minimum on a monthly basis for Services rendered. Invoices shall be due and payable upon receipt. If Owner objects to any invoice submitted by HNTB, Owner shall so advise HNTB in writing giving reasons therefor within seven (7) days of receipt of such invoice. If any invoice submitted by HNTB is disputed by Owner, only that portion so disputed may be withheld from payment at which time Owner shall immediately reimburse HNTB for any outstanding amounts due with respect thereto. HNTB will not be required to revise invoices if total disputed amount is less than 2.5% of total invoice value, and such amounts will be adjusted on next invoice submittal. If no such objection is made, the statement will be considered acceptable to Owner and immediately due and payable.

C. Invoice amounts not paid within thirty (30) days after receipt shall accrue interest at the rate of 1.5% per month (or the maximum rate permitted by law, if less), with payments applied first to accrued interest and then to unpaid principal. Owner shall pay HNTB's reasonable attorneys' fees incurred in connection with any litigation instituted to recover invoice amounts. In addition, HNTB shall have the right to suspend Services if Owner fails to make timely payments thirty (30) days after receipt of invoice.

ARTICLE 6 – CHANGE MANAGEMENT

A. The parties may at any time agree to a written Change Order within the general scope of this Agreement. If any Change Order should result in an increase or decrease in the cost of, or the time required for, performance under this Agreement, or otherwise affects any other provision of this Agreement, an equitable adjustment shall be made in the compensation, delivery schedule, or both if applicable and/or in such other provisions of this Agreement as may be so affected prior to HNTB's obligation to begin any such changed services. HNTB shall submit written notice of such impacts to Owner. Owner shall take action on such notice within ten (10) days of submittal and a mutually agreed upon Amendment to the Agreement shall be issued in writing executed by both parties prior to HNTB's performance of such changed services.

B. If HNTB believes Owner has requested out of scope work that is not identified in the Scope of Services, HNTB shall submit a written request for change in writing to Owner outlining the nature of the out-of-scope work involved, the reasons for which HNTB believes additional compensation will or may be due, with a statement of estimated changes in fee or time schedule. Owner shall take action on such request within

ten (10) days of submittal and a mutually agreed upon Change Order or Amendment to the Agreement shall be issued in writing executed by both parties prior to HNTB's performance of such out of scope work

C. It is the intention of this Article that any notice or claim for out-of-scope work for whatever reason be brought to the attention of Owner at the earliest possible time in order that matters related to any such work can be settled in a prompt manner but in no event later than the time limits set forth in this Article. HNTB shall not be required to perform out-of-scope or Change Order work unless such work and any applicable change has been approved in writing by Change Order or Amendment to this Agreement executed by both parties.

D. Change Orders and Amendments shall be governed by the terms and conditions of this Agreement unless otherwise expressly set forth therein.

ARTICLE 7 - OWNER'S RESPONSIBILITIES

A. Owner shall be responsible for all matters described in Attachment D, Owner's Responsibilities, if applicable. In addition, Owner shall perform and provide the following in a timely manner so as not to delay the Services of HNTB:

(1) Place at HNTB's disposal all available information pertinent to the Project, including previous reports, drawings, specifications or any other data as may be reasonably required by HNTB to perform its Services.

(2) Give prompt written notice to HNTB whenever Owner becomes aware of any development that affects the scope or timing of HNTB's Services, or any defect in the Services of HNTB.

(3) Advise HNTB of the identity and scope of services of any independent consultants retained by Owner to provide services in regard to the Project.

B. Owner hereby represents that it owns the intellectual property rights in any plans, documents or other materials provided by Owner to HNTB. If Owner does not own the intellectual property rights in such plans, documents or other materials, prior to providing same to HNTB, Owner shall obtain a license or right to use, including the right to sublicense to HNTB. Owner hereby grants HNTB the right to use the intellectual property associated with plans, documents or other materials it owns or has the right to use for the limited purpose of performing the Services. Owner represents that HNTB's use of such documents will not infringe upon any third parties' rights and Owner will indemnify and protect HNTB from any infringement claims arising from HNTB's use of any plans, documents or other materials provided to HNTB in the performance of its Services hereunder.

ARTICLE 8 - STANDARD OF CARE

The same degree of care, skill, and diligence shall be exercised in the performance of the Services as is ordinarily possessed and exercised by a member of the same profession, currently practicing, under similar circumstances. No other warranty, express or implied, is included in this Agreement or in any drawing, specification, report, opinion, or other instrument of service, in any form or media, produced in connection with the Services.

ARTICLE 9 - INDEMNIFICATION AND LIABILITY

A. Having considered the potential liabilities that may exist during the performance of the Services, the relative benefits and risks of the Project, and HNTB's fee for the Services, and in consideration of the promises contained in this Agreement, Owner and HNTB agree to allocate and limit such liabilities in accordance with this Article.

B. HNTB agrees to indemnify and hold the Owner harmless from and against legal liability for all judgments, losses, damages, and expenses to the extent such judgments, losses, damages, or expenses are caused by HNTB's negligent acts, errors, or omissions arising out of its performance of the Services. In the event judgments, losses, damages, or expenses are caused by the joint or concurrent negligence of HNTB and Owner, they shall be borne by each party in proportion to its own negligence.

C. To the fullest extent permitted by law, the total aggregate liability of HNTB and its subconsultants to Owner for all judgments, losses, damages, and expenses resulting in any way from the performance of the Services shall not exceed the total compensation received by HNTB under this Agreement.

D. To the fullest extent permitted by law, HNTB shall not be liable to Owner for any special, punitive, consequential or indirect damages resulting in any way from the performance of the Services or otherwise arising from this Agreement.

E. The terms and conditions of this Article shall survive completion of the Services, or any termination of this Agreement.

ARTICLE 10 - INSURANCE

A. During the term of this Agreement, HNTB shall maintain the following insurance:

- (1) Commercial General Liability Insurance, with a limit of \$1,000,000 per occurrence and \$2,000,000 annual aggregate.
- (2) Business Automobile Liability Insurance, with a combined single limit of \$1,000,000 for each person and \$1,000,000 for each accident.
- (3) Workers' Compensation Insurance in accordance with statutory requirements and Employer's Liability Insurance, with a limit of \$500,000 for each occurrence.
- (4) Professional Liability Insurance, with a limit of \$1,000,000 per claim and annual aggregate.

B. HNTB shall, upon written request, furnish Owner certificates of insurance as evidence of compliance with this Article. Owner shall require all Project contractors to include Owner, HNTB, and its parent company, affiliated and subsidiary entities, directors, officers and employees as additional insureds on their Commercial General and Business Automobile Liability insurance policies, and to indemnify both Owner and HNTB, each to the same extent.

C. HNTB and Owner waive all rights against each other and their directors, officers, partners, commissioners, officials, agents, and employees for damages covered by property insurance during and after the completion of the Services. If the Services result in any construction related to the Project, a similar provision shall be incorporated into all construction contracts entered into by Owner and shall protect Owner and HNTB to the same extent.

ARTICLE 11 - LIMITATIONS OF RESPONSIBILITY

A. HNTB shall not be responsible for (1) construction means, methods, techniques, sequences, procedures, or safety precautions and programs in connection with the Project; (2) the failure of any contractor, subcontractor, vendor, or other Project participant, not under contract to HNTB, to fulfill contractual responsibilities to Owner or to comply with federal, state, or local laws, regulations, and codes; or (3) procuring permits, certificates, and licenses required for any construction unless such procurement responsibilities are specifically assigned to HNTB in Attachment A, Scope of Services.

B. In the event the Owner requests HNTB to execute any certificates or other documents, the proposed language of such certificates or documents shall be submitted to HNTB for review at least 15 days prior to the requested date of execution. HNTB shall not be required to execute any certificates or documents that in any way would, in HNTB's sole judgment, (i) increase HNTB's legal or contractual obligations or risks; (ii) require knowledge, services or responsibilities beyond the scope of this Agreement; or (iii) result in HNTB having to certify, guarantee or warrant the existence of conditions whose existence HNTB cannot ascertain.

ARTICLE 12 - OPINIONS OF COST AND SCHEDULE

Because HNTB has no control over the cost of labor, materials, or equipment furnished by others, or over the resources provided by others to meet Project schedules, HNTB's opinion of probable costs and of Project schedules, if any, shall be made on the basis of experience and qualifications as a practitioner of its profession. HNTB does not guarantee that quantities, proposals, bids, or actual Project costs will not vary from HNTB's cost estimates or that actual schedules will not vary from HNTB's projected schedules.

ARTICLE 13 - REUSE OF DOCUMENTS

All documents, including, but not limited to, plans, drawings, and specifications prepared by HNTB as deliverables pursuant to the Scope of Services are instruments of service in respect to the Project. They are not intended or represented to be suitable for reuse by Owner or others on modifications or extensions of the Project or on any other project. Any reuse without prior written verification or adaptation by HNTB for the specific purpose intended will be at Owner's sole risk and without liability or legal exposure to HNTB. Owner shall indemnify and hold harmless HNTB and its subconsultants against all judgments, losses, damages, injuries, and expenses, including reasonable attorneys' fees, arising out of or resulting from such reuse. Any verification or adaptation of documents will entitle HNTB to additional compensation at rates to be agreed upon by Owner and HNTB.

ARTICLE 14 - OWNERSHIP OF DOCUMENTS AND INTELLECTUAL PROPERTY

Except as otherwise provided herein, documents, drawings, and specifications prepared by HNTB and furnished to Owner as part of the Services shall become the property of Owner; provided, however, that HNTB shall have the unrestricted right to their use. HNTB shall retain its copyright and ownership rights in its design, drawing details, specifications, data bases, computer software, and other proprietary property. Intellectual property developed, utilized, or modified in the performance of the Services shall remain the property of HNTB.

ARTICLE 15 - TERMINATION AND SUSPENSION

A. This Agreement may be terminated by either party upon written notice in the event of substantial failure by the other party to perform in accordance with the terms of this Agreement; provided, however, the nonperforming party shall have fourteen (14) calendar days from the receipt of the termination notice to cure or to submit a plan for cure acceptable to the other party.

B. Owner may terminate or suspend performance of this Agreement for Owner's convenience upon written notice to HNTB. HNTB shall terminate or suspend performance of the Services on a schedule acceptable to Owner, and Owner shall pay HNTB for all the Services performed plus termination or suspension expenses. Upon restart of suspended Services, an equitable adjustment shall be made to HNTB's compensation and the Project schedule. Notwithstanding anything to the contrary contained herein, HNTB shall have the right to reassign staff, whether considered key staff or not, as appropriate to accommodate its business needs if performance hereunder is suspended for a period greater than ninety (90) days. If the original key staff are no longer available upon restart of a period of suspended performance for any reason, HNTB shall, without penalty, be permitted to substitute alternate staff and if requested, will resubmit its schedule of key staff and their qualifications for approval by the Owner, such approval not to be unreasonably withheld.

ARTICLE 16 - DELAY IN PERFORMANCE

A. Neither Owner nor HNTB shall be considered in default of this Agreement for delays in performance caused by circumstances beyond the reasonable control of the nonperforming party. For purposes of this Agreement, such circumstances include, but are not limited to, abnormal weather conditions; floods; earthquakes; fire; epidemics; war, riots, and other civil disturbances; strikes, lockouts, work slowdowns, and other labor disturbances; sabotage; judicial restraint; and delay in or inability to procure permits, licenses, or authorizations from any local, state, or federal agency for any of the supplies, materials, accesses, or services required to be provided by either Owner or HNTB under this Agreement. HNTB shall be granted a reasonable extension of time for any delay in its performance caused by any such circumstances.

B. Should such circumstances occur, the nonperforming party shall, within a reasonable time of being prevented from performing, give written notice to the other party describing the circumstances preventing continued performance and the efforts being made to resume performance of this Agreement.

ARTICLE 17 - NOTICES

A. Any notice required by this Agreement shall be made in writing to the address specified below:
Owner:

Owner: Morton Grove-Niles Water Commission

Attn: Mr. William Balling

MGNWC Superintendent

1000 Civic Center Dr.

Niles, IL 60714

Phone: 847-863-7101

Email: Bill@wrllc.com

HNTB: HNTB Corporation

One South Wacker Dr. Suite 900

Chicago, IL 60606

Attn: Robert Ivarson, P.E.

Project Manager

Phone: 312-798-0303

Email: Rivarson@hntb.com

B. Nothing contained in this Article shall be construed to restrict the transmission of routine communications between representatives of Owner and HNTB.

ARTICLE 18 - DISPUTES

A. In the event of a dispute between Owner and HNTB arising out of or related to this Agreement, the aggrieved party shall notify the other party of the dispute within a reasonable time after such dispute arises. If the parties cannot thereafter resolve the dispute, each party shall nominate a senior officer of its management to meet to resolve the dispute by direct negotiation or mediation.

B. Should such negotiation or mediation fail to resolve the dispute, either party may pursue resolution of the dispute by arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association; provided, however, in the event the parties are unable to reach agreement to arbitrate under terms reasonably acceptable to both parties, either party may pursue resolution in any court having jurisdiction.

C. During the pendency of any dispute, the parties shall continue diligently to fulfill their respective obligations hereunder.

ARTICLE 19 - EQUAL EMPLOYMENT OPPORTUNITY

A. HNTB hereby affirms its support of affirmative action and that it is an equal opportunity employer and complies with Title VII of the Civil Rights Act of 1964, and the provisions of the "Equal Opportunity Clause" of Section 202 of Executive Order 11246, as Amended by Executive Order Number 11375; Section 503 of the Rehabilitation Act of 1973; Section 4212 of the Vietnam Era Veterans Readjustment Act of 1974; 41 CFR Part 60, specifically subparts 60-1.4, 60-250.5, 60-300.5, 60-741.2, and 60-741.5; and other applicable regulations and orders of the Department of Labor relating thereto. All such regulations and are incorporated herein by reference and made a part of this Agreement as if set forth in their entirety. **HNTB further affirms that it and its subconsultants shall abide by the requirements of 41 CFR 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, age, height, weight, color, religion, sex (including gender identity), sexual preference/orientation, marital status, citizen status, ancestry, or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment qualified individuals without regard to race, color, religion, sex, national origin, protected veteran status or disability. HNTB further affirms its policy to recruit and hire employees without regard to race, age, color, religion, sex, sexual preference/orientation, marital status, citizen status, national origin or ancestry, presence of a disability or status as a Veteran of the Vietnam era or any other legally protected status.** It is HNTB's policy to treat employees equally with respect to compensation, advancement, promotions, transfers and all other terms and conditions of employment and to make sure that minorities will be afforded full opportunity to submit a proposal and will not be discriminated against on the basis of race, color or national origin in consideration for an award.

B. Furthermore as and when applicable, HNTB, for itself, its assignees and successors in interest affirms it will comply with:

(i) Executive Order 13496 requiring employers to inform employees of their rights under the National Labor Relations Act (NLRA), the primary law governing relations between unions and employers in the private sector (see 29 CFR Part 471, Appendix A). HNTB shall post the prescribed notice in every subcontract wherein services are performed under a federally-funded program and/or under a federal contract, except contracts for purchases under the Simplified Acquisition Threshold (currently \$100,000), subcontracts below \$10,000, and in those cases where the Secretary exempts a contracting department or agency pursuant to the Executive Order. HNTB shall also require its subconsultants to post the prescribed notice in all lower-tier consultant contracts.

(ii) Regulations of the Department of Transportation relative to nondiscrimination in federally assisted programs of the Department of Transportation including 49 CFR Part 21 through Appendix H; 23 CFR Part 200 (Title VI of the Civil Rights Act of 1964 and related statutes); and 23 CFR, subpart 710.405(b), which are incorporated herein by reference and made a part of this Agreement.

C. HNTB further affirms completion of applicable governmental employer information reports including the EEO-1 and VETS-100 reports, and maintenance of a current Affirmative Action Plan as required by Federal regulations.

ARTICLE 20 - WAIVER

A waiver by either Owner or HNTB of any breach of this Agreement shall be in writing. Such a waiver shall not affect the waiving party's rights with respect to any other or further breach.

ARTICLE 21 - SEVERABILITY

The invalidity, illegality, or unenforceability of any provision of this Agreement or the occurrence of any event rendering any portion or provision of this Agreement void shall in no way affect the validity or enforceability of

any other portion or provision of this Agreement. Any void provision shall be deemed severed from this Agreement, and the balance of this Agreement shall be construed and enforced as if it did not contain the particular portion or provision held to be void. The parties further agree to amend this Agreement to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision. The provisions of this Article shall not prevent this entire Agreement from being void should a provision which is of the essence of this Agreement be determined void.

ARTICLE 22 - INTEGRATION

This Agreement, including Attachments A, B, C, and D incorporated by this reference, represents the entire and integrated agreement between Owner and HNTB. It supersedes all prior and contemporaneous communications, representations, and agreements, whether oral or written, relating to the subject matter of this Agreement.

ARTICLE 23 - SUCCESSORS AND ASSIGNS

Owner and HNTB each binds itself and its successors, executors, administrators, permitted assigns, legal representatives and, in the case of a partnership, its partners, to the other party to this Agreement and to the successors, executors, administrators, permitted assigns, legal representatives, and partners of such other party in respect to all provisions of this Agreement.

ARTICLE 24 - ASSIGNMENT

Neither Owner nor HNTB shall assign any rights or duties under this Agreement without the prior written consent of the other party, which consent shall not be unreasonably withheld; provided, however, HNTB may assign its rights to payment without Owner's consent. Unless otherwise stated in the written consent to an assignment, no assignment will release or discharge the assignor from any obligation under this Agreement. Nothing contained in this Article shall prevent HNTB from engaging independent consultants, associates, and subcontractors to assist in the performance of the Services.

ARTICLE 25 - NO THIRD PARTY RIGHTS

The Services provided for in this Agreement are for the sole use and benefit of Owner and HNTB. Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than Owner and HNTB.

IN WITNESS WHEREOF, Owner and HNTB have executed this Agreement. The individuals signing this Agreement represent and warrant that they have the power and authority to enter into this Agreement and bind the parties for whom they sign.

MORTON GROVE NILES WATER COMMISSION
(Owner)

HNTB CORPORATION
(HNTB)

Signature: _____

Signature: _____

Name: _____

Name: Joseph R. Catalano, P.E

Title: _____

Title: Vice President

Date: _____

Date: 9/20/17

ATTACHMENT A
SCOPE OF SERVICES

Provide an Independent review of the Project Development Report and the engineering design, associated with the 95% level of completion, to confirm design elements and assumptions associated with the Stanley work, and to point out if necessary, recommendations to consider modifying the design and programming of this project. Design review feedback is needed as soon as issues are identified as bid solicitation is scheduled for November 2017. The independent design review shall follow professional standards and practices related to quality control review, the independent consultant's work shall include comments on the following elements:

1. Review of the Project Development Report on core assumptions and routing. MGNWC to date has been working closely with Skokie to identify their preferred route through Skokie. Review proposed system for redundancy and expected reliability. Review WaterCAD hydraulic model and confirm operational assumptions and expected level of service.
2. Review overall project scope and completeness.
3. Review overall project design assumptions including core design, plans, and specifications. Review bidding strategy and verify cost effectiveness of bidding schedule.
4. Review of estimated project cost, now estimated at the 75% engineering completion level, as \$99,000,000 with all in costs.
5. Review construction work launch and completion schedule review for completion in 2018,
6. Perform constructability review and provide value engineering type recommendations.
7. Obtain input from partners with operational experience. Review finished product for potential operational challenges.
8. Perform detailed QC technical review of plans and specifications prior to project bid advertisement. Review and confirm design team responses to owner's

previous comments. All HNTB's comments shall be identified as whether or not they are recommended for inclusion in an addendum.

9. All comments shall be prepared using the standard project comment form and/or via blue beam with comment marked directly on a PDF copy of plans. Comments marked directly on the plans shall also be accompanied by the standard project comment form with reference made to the markup, this will facilitate the design team response.

10. Any other commentary on key assumptions of the project program assumptions used to develop this work program.

Comments shall be provided in accordance with the scheduled completion date to:

Morton Grove-Niles Water Commission
c/o Mr. William Balling
MGNWC Superintendent
1000 Civic Center Dr.
Niles, IL 60714

Contact Number: 847-863-7101
Alt. Contact Number: 847-588-8000
Email: Bill@wrblc.com

ATTACHMENT B

SCHEDULE

The schedule of this contract shall last approximately 5 weeks. Initiation shall begin on September 22, 2017 and shall be completed by October 27, 2017.

ATTACHMENT C
COMPENSATION

Compensations shall be provided based upon the attached spreadsheet.

Morton Grove Niles Water Commission
Contract: Cost Reimbursable with not to exceed

20-Sep-17

Engineering Services Term Agreement

Review of Morton Grove Niles Water Project

HNTB HOURS	345
HNTB COSTS	\$ 74,426

212.83

TOTAL NOT-TO-EXCEED \$ 75,000

Morton Grove Niles Water Commission

20-Sep-17

Contract #: _____

Specification #: _____

HNTB Corporation

External Review

2015

Task Number	Task Description	HNTB (Anticipated Man Hours)							TOTAL	Direct Labor Cost	Overhead (147.34%)	Expenses Printing	Fee (10%)	TOTAL
		Vice President	Sr. Project Manager	Project Manager II Senior Civil	Sr. Cost Engineer	Senior Hydraulic Engineer	Senior Electrical Engineer	Project Analyst						
	Proposed Actual Rates	\$ 124.00	\$ 94.40	\$ 83.69	\$ 67.04	\$ 56.16	\$ 78.08	\$ 42.00						
	Project Review													
1.0	Project and Budget Set up, Invoicing	1	8	6				16	31	\$ 2,053.33	\$ 3,025.38		\$ 507.87	\$ 5,586.59
2.0	Project Scope and Completeness		24	24	6	0	6		60	\$ 5,144.85	\$ 7,580.43		\$ 1,272.53	\$ 13,997.81
2.1	Project Design Assumptions													
2.2	Design													
2.3	Plans and Specifications													
2.4	Bidding Strategy and Bid Schedule													
3.0	Review of Estimated Project Cost		6	6	22		4		38	\$ 2,855.73	\$ 4,207.64		\$ 706.34	\$ 7,769.71
4.0	Review of Construction Schedule		8	8	4		4		24	\$ 2,005.19	\$ 2,954.45		\$ 495.96	\$ 5,455.60
5.0	Constructability Review and VE		8	16	8		8		40	\$ 3,255.18	\$ 4,796.19		\$ 805.14	\$ 8,856.50
6.0	Review of Operational Changes		8	8	4		4		24	\$ 2,005.19	\$ 2,954.45		\$ 495.96	\$ 5,455.60
7.0	Perform QC of Plans and Specs		20	20	0	0	6		46	\$ 4,030.26	\$ 5,938.18		\$ 996.84	\$ 10,965.28
8.0	Review Water CAD Hydraulic Model		2	0	0	24	0		26	\$ 1,536.64	\$ 2,264.09		\$ 380.07	\$ 4,180.80
9.0	Prepare Response		16	16	8	8	8		56	\$ 4,459.66	\$ 6,570.87	\$ 25.00	\$ 1,103.05	\$ 12,158.58
	GRAND TOTAL	1	100	104	52	32	40	16	345	\$ 27,346.04	\$ 40,291.66	\$ 25.00	\$ 6,763.77	\$ 74,426.48

ATTACHMENT D

OWNER'S RESPONSIBILITIES

Owner shall perform and provide the following in a timely manner so as not to delay the Services of HNTB, and HNTB may rely on the accuracy and completeness of the following:

1. Designate in writing a person to act as Owner's representative, such person to have complete authority to transmit instructions, receive information, and interpret and define Owner's decisions with respect to HNTB's Services for the Project.
2. Render decisions and approvals as promptly as necessary to allow for the expeditious performance of HNTB's Services.
3. Provided in a timely manner, all documents, drawings, schedules, costs, and reports that are required for the requested review of this project.

Unless otherwise provided in this Agreement, Owner shall bear all costs incident to compliance with the above items.

BOB IVARSON, PE, D.WRE
Senior Project Manager

Bob has 44 years of professional experience in water resources engineering, including planning, analysis and design of dams, spillways, pump stations, tunnels, storage reservoirs, canals, pipelines, raw and treated water facilities, stormwater and sewage collection systems and flood control facilities. He also has experience in bridge scour evaluation, surface and groundwater hydrology and hydraulics, FEMA floodway delineation, stormwater management studies, harbor and breakwater analysis and design, and coastal erosion and sediment transport studies. Bob's project experience includes:

Peer Review and Auditing for Permanent Canal Closures Pump Station, New Orleans, LA - Project manager and lead reviewer for three Outfall Canal closure structures pump stations, including the 12,500 cfs 17th Street Station, the 9,000 cfs London Avenue station, and the 2,700 cfs Orleans Station. The reviews and audits involved more than 25 critical project systems and features, including an independent check of critical elements; design concept review; and audit design submittals and design review.

Honda Water Infrastructure Improvements, Greensburg, IN - Lead water resources engineer for the planning and design of a river intake, 2,000-acre-foot storage reservoir, and associated 11 MGD pump station. Due to increased use of the City of Greensburg's infrastructure from a new Honda Motor Company Plant, water and wastewater facilities needed to be upgraded and expanded. Water projects included a new 1 MG elevated water storage tank, 22,000 linear feet of 16-inch water main extension to the Honda site, a new 2 MGD ground water treatment plant, improvements to the two existing 1.8 MGD surface water plants, improvements to existing pump stations, and 45,300 linear feet of 24-inch raw water main extension. Wastewater projects included a 2 MGD regional lift station, interceptor sewers, 19,000 linear feet of 18-inch force main and expansion of the existing wastewater treatment plant from 4 to 8.9 MGD. The lift station was designed to initially serve the new Honda manufacturing facility as well as serve as a regional lift station to future industrial parks around the Honda site. The lift station improvements included on-site emergency generator, and building to house VFDs, metering equipment and future chemical addition.

Water Main Replacement, Deerfield, IL - Directed the design of water main replacement for various portions of the Village of Deerfield water system.

Water Distribution Networks, Chicago, IL - Designed numerous water distribution networks for residential communities in the western and southwestern suburbs of Chicago.

BOB IVARSON, PE, D.WRE

Firm

HNTB Corporation

Education

MS, Civil Engineering, 1973,
University of Wisconsin
BS, Civil Engineering, 1972, Illinois
Institute of Technology

Registrations

Professional Engineer: IL, AK, CO, FL,
KS, MI, MN, MO, NY, WA, WI
Diplomate, Water Resources
Engineer Certification

Affiliations

Society of American Military
Engineers (SAME) - Fellow
American Academy of Water
Resources Engineers - Diplomat
American Geophysical Union
Western Society of Engineers
U.S. Society on Dams
American Council of Engineering
Companies
American Society of Civil Engineers

Date Hired with HNTB

2004

Years with Other Firms

31

9440

Raw Water Intakes, Chicago, IL - Project manager for inspections and chlorine diffuser performance evaluations of City of Chicago raw water intakes at the Jardine and South Water Purification Plants. Bob directed above and below water inspection and rehabilitation evaluation of the Dever and 68th Street intake cribs.

New Raw Water Intake, Fort Wayne, IN - Lead engineer for the preliminary planning of a 36 MGD auxiliary river intake. A feasibility study of daily river discharge and intake layouts was performed for the Maumee, St. Joseph and St. Mary's Rivers.

Cribs and Shore Water Intakes Improvements, Chicago, IL - Directed the inspection and condition assessment of the crib and shore intakes and performance testing of intake chlorine dispersion systems for the control of zebra mussels at the Jardine and South Water Purification Plants. The Jardine and South Water plants have treatment capacities of 1,400 MGD and 700 MGD respectively.

Professional Engineering Services for Levee Systems Certification, Ascension Parish, LA - Independent technical reviewer of draft and final report for the levee analysis and mapping procedures analysis and levee certification of the Marvin Braud Pump Station levee system. Bob also serves as lead engineer for the Marvin Braud pump station inspection and backflow prevention study. Work includes task orders for hydraulic and hydrologic modeling, geotechnical investigations and analyses, levee and channel surveys, levee inspection, alternatives analysis, reports of findings, design for levee improvements, and preparation of Letter of Map Revision.

Partial Demolition of Wilson Avenue Crib and Four-Mile Crib, Chicago, IL - Project manager for the investigation, permitting, design and engineering services during construction for the demolition of two inactive water intake crib structures located 2.5 to four miles out in Lake Michigan at Wilson Avenue and Four-Mile.

New Orleans District USACE General Engineering Design IDIQ, New Orleans, LA - Engineering manager for final design and preparation of plans and specifications for the Gulf Intracoastal Water Way West Closure Complex pump station Westbank and Vicinity, New Orleans, LA Hurricane Protection project. The entire project consists of navigable hurricane storm surge gate, pump station, floodwalls and levees.

Rice Lake Pump Station, Canton, IL - Principal-in-charge for a pump station designed to pump water from the Illinois River into Rice Lake to raise water levels in the lake to support migratory water fowl habitat and drought relief for the floodplain wetlands during migration. Work included 1D hydraulics analysis of the Illinois River to verify that river levels could support the pumping, survey, geotechnical investigations and engineering for the new structures and levee modification, and structural, mechanical, electrical control system and civil design. The pump control building was designed above the 100-year floodplain to prevent inundation during flooding.

BOB IVARSON, PE, D.WRE

GARY LOSS, PE, D.WRE**Project Manager II, Senior Civil Engineer**

Gary has more than 40 years of experience managing large civil works planning, design and construction programs. Prior to joining HNTB, Gary served as deputy for programs and project management at the Rock Island District USACE responsible for the \$160 million annual program which included 22 locks and dams, three large reservoirs, and \$20 million annually in ecosystem restoration. He provided regional program management for several multi-million-dollar water resource programs. Gary's project experience includes:

Rice Lake Pump Station, Canton, IL - Technical reviewer for this ecosystem restoration and infrastructure improvement project was for a 300 cfs pump station. The pump station was designed to pump water from the Illinois River into Rice Lake to raise water levels in the lake to support migratory water fowl habitat and drought relief for the floodplain wetlands during migration. Work included 1D hydraulics analysis of the Illinois River to verify that river levels could support the pumping, survey, geotechnical investigations and engineering for the new structures and levee modification, and structural, mechanical, electrical control system and civil design. The pump control building was designed above the 100-year floodplain to prevent inundation during flooding.

Howard Hanson Dam, Tacoma, WA - Joint venture team leader who provided expert review of a post-authorization change engineering documentation report and 95% fish passage facility design for appropriateness of the design and accuracy of the cost estimate because of a \$265 million increase. The project involves downstream fish passage facilities to support the salmon runs on the Green River. A panel of 12 experts reviewed and provided opinion.

Chicago Sanitary and Ship Canal, Lockport, IL - Joint venture technical reviewer who completed the engineering and design for rehabilitation of 100-year-old historic floodgate structures. The facility consists of seven 32.5-foot-wide lift gates, eight concrete piers and towers and five sheetpile bulkheads with a total length of 570 feet. The team completed an engineering assessment for the structural integrity, stability, water-tightness, and durability of the gate towers, piers and bulkheads. Based upon the assessment, the team developed design concepts and prepared final plans and specifications for the rehabilitation work, including repair of deteriorated concrete towers and stilling base, deteriorated brick/limestone/quartzite veneer, leading gates, and concrete bull noses and bulkheads replacement. A critical project requirement was to leave the gate machinery intact while retrofitting the supporting structures. This resulted in an innovation that provided a temporary shoring system to support the flood gates during the repair of the gate-supporting towers. The construction was staged and sequenced so that only two gates could be out of service at any given time during construction. The gate machinery and walkway rest on the concrete capstones of the tower. The capstones

GARY LOSS, PE, D.WRE**Firm**

HNTB Corporation

Education

MS, Water Resources/Civil Engineering, 1986, Michigan Technological University

BS, Civil Engineering, 1971, University of Wisconsin

Registrations/CertificationsProfessional Engineer: WI
Diplomate, Water Resources Engineer Certification**Affiliations**Society of American Military Engineers, Fellow
American Society of Civil Engineers
Bronze Order of the DeFluery Medal**Date Hired with HNTB**

November 2009

Years with Other Firms

39

83.68

underwent major damage over the years and needed to be repaired without moving the gate, gate machinery and walkway. A repair methodology provided temporary shoring for the gate, gate machinery and walkway during construction. In addition to meeting the engineering challenges, the team successfully maintained the historic integrity of this landmark facility.

USACE Rock Island District - Deputy for programs and project management responsible for the \$160 million annual program which included 22 locks and dams, three large reservoirs, and \$20 million annually in ecosystem restoration. Gary led efforts to brief members of Congress and the Corps on the need for authorization and annual appropriations for district programs. He represented the Corps on numerous regional stakeholder groups, and provided regional program management for several multi-million-dollar water resource programs, including:

- Several levee and floodwall projects, including Cedar Falls, IA (\$24 million), Loves Park, IL (\$30 million), and Des Moines, IA (\$14 million)
- Flow Frequency Study for Upper Mississippi, Illinois and Missouri Rivers (\$4.5 million effort involving five Corps districts, 10 states and several Federal agencies. Established integrated flood profiles using current H&H data and state-of-the-art HEC computer models)
- Comprehensive plan for flood protection on the Upper Mississippi River (\$7.5 million Federally-funded study)
- Major rehabilitation of locks and dams (\$25-30 million per site)
- Upper Mississippi-Illinois Waterway System Feasibility Study (\$5 billion navigation improvements and \$8 billion ecosystem restoration)
- Illinois River Ecosystem Restoration Master Plan (\$8 billion total federal and state investment for projects and management initiatives for the entire Illinois River watershed)
- \$130 million rehabilitation of walls and embankments along the navigation canal above Lockport Lock (multi-function project providing flood protection to cities of Joliet and Lockport, IL)
- Environmental Management Program (\$15 million in annual habitat restoration construction and \$6 million in long-term resource monitoring)

GARY LOSS, PE, D.WRE

KAREN TENKE-WHITE, PE

Senior Cost Engineer

Karen has 34 years of engineering, design, and construction project management experience. Her project experience includes:

Peer Review and Auditing for Permanent Canal Closures Pump Station, New Orleans, LA - Reviewer who provided engineering review of contractor's design solutions and their compliance with the design requirements for three Outfall Canal closure structures pump stations, including the 12,500 cfs 17th Street Station, the 9,000 cfs London Avenue station, and the 2,700 cfs Orleans Station. The reviews and audits included more than 25 critical project systems and features, involved independent check of critical elements; design concept review; and audit design submittals and design review.

Honda Water Infrastructure Improvements, Greensburg, IN - Engineer responsible for preliminary design of the City of Greensburg water supply system. Karen also prepared preliminary layouts and cost estimates. Due to increased use of the City of Greensburg's infrastructure from a new Honda Motor Company Plant, water and wastewater facilities needed to be upgraded and expanded. Water projects included a new 1 MG elevated water storage tank, 22,000 linear feet of 16-inch water main extension to the Honda site, a new 2 MGD ground water treatment plant, improvements to the two existing 1.8 MGD surface water plants, improvements to existing pump stations, and 45,300 linear feet of 24-inch raw water main extension. Wastewater projects included a 2 MGD regional lift station, interceptor sewers, 19,000 linear feet of 18-inch force main and expansion of the existing wastewater treatment plant from 4 to 8.9 MGD. The lift station was designed to initially serve the new Honda manufacturing facility as well as serve as a regional lift station to future industrial parks around the Honda site. The lift station improvements included on-site emergency generator, and building to house VFDs, metering equipment and future chemical addition.

Rice Lake Pump Station, Canton, IL - QA/QC engineer who provided senior-level review of the final design submittal and reports. Karen also served as cost engineer responsible for preparing construction cost estimates. The pump station was designed to pump water from the Illinois River into Rice Lake to raise water levels in the lake to support migratory water fowl habitat and drought relief for the floodplain wetlands during migration. Work included 1D hydraulics analysis of the Illinois River to verify that river levels could support the pumping, survey, geotechnical investigations and engineering for the new structures and levee modification, and structural, mechanical, electrical control system and civil design. The pump control building was designed above the 100-year floodplain to prevent inundation during flooding.

KAREN TENKE-WHITE, PE

Firm

HNTB Corporation

Education

BS, Civil Engineering (Environmental Engineering and Construction Management), 1979, Marquette University

Continuing Education Classes in Cost Estimating, Project Management, and Technical Issues

Registrations

Professional Engineer: WI

Affiliations

Western Society of Engineers

Date Hired with HNTB

2006

Years with Other Firms

24

67.04

Salton Sea Wetland Pump Station, Imperial Valley, CA - Engineer who directed the preparation of layouts and evaluation of alternatives, performed preliminary and final design, and produced contract/construction documents for intakes, pipelines and pump stations to provide water from the Salton Sea and the New River to a 640-acre wetland.

USACE Gulf Intracoastal Water Way Pump Station West Closure Complex, New Orleans, LA - Civil engineer who provided design and management services for the final design and preparation of plans and specifications for this hurricane protection project. The entire project consists of navigable hurricane storm surge gate, pump station, floodwalls and levees. The pump station capacity is 19,140 cfs and comprised of 11 diesel-driven axial flow pumps and auxiliary facilities.

USACE General Engineering Design IDIQ, New Orleans District, LA - Engineer who participated in the development and evaluation of engineering alternatives for the pump station. The entire project consists of navigable hurricane storm surge gates, pump station, floodwalls and levees.

FEMA Temporary Mobile Home Site Development Minot, ND - QA/QC engineer who provided senior-level review of the final design submittal and reports. Karen was also a cost engineer responsible for preparing construction cost estimates. The project included three, 200-lot sites for new temporary mobile buildings and facilities as part of recovery efforts from Souris River flooding. Challenges consisted of finding a connecting water source capable of servicing needs of expected mobile homes, avoiding existing wetlands and drainage designs to prevent flooding impacts further downstream. Designs for all three sites were completed under an extremely aggressive schedule – less than two weeks per site to a construction start prior to winter. Engineering support during bidding and construction was provided.

Kinnickinnic River Feasibility Study, Milwaukee, WI - Water resources engineer responsible for evaluating the constructability of project features, and preparing cost estimates used to compare alternatives for this feasibility study. The project location extends into the estuary and suffers water quality due to an enlarged dredged channel resulting in low oxygen levels, and the presence of hazardous waste deposits within the sediment. The objectives of the study are to reduce contaminated sediments, improve fish and wildlife habitat, improve water quality, and to not increase the regulatory flood elevation.

Partial Demolition of Wilson Avenue Crib and Four-Mile Crib, Chicago, IL - Deputy project manager, civil/coastal engineer and cost engineer for the investigation, permitting, design and engineering services during construction for the demolition of two inactive water intake crib structures located 2.5 to four miles out in Lake Michigan at Wilson Avenue and Four-Mile.

KAREN TENKE-WHITE, PE

MIKE HRZIC, PE

Senior Hydraulic Engineer

Mike has 17 years of experience in water resources, infrastructure rehabilitation, floodplain analysis and mapping, dam safety, reservoir design, environmental restoration, channel stability, and emergency response. He specializes in hydrology, hydraulics and sedimentary processes with an emphasis on riverine systems, specifically relating to water supply, flood control and restoration. Mike's extensive modeling capabilities include working with HEC-RAS, HEC-6 and HEC-1 in support of dam break analysis and emergency action plans. He is also experienced in geographic information systems (GIS). Mike's understanding of water resources, extensive capabilities in computer modeling and GIS, and design-build knowledge enables him to provide quality evaluations and project needs assessments that incorporate the latest in geospatial information. Prior to joining HNTB, Mike worked with the Metropolitan Water Reclamation District of Greater Chicago (MWRDGC) and served five years with the U.S. Army Corps of Engineers (USACE) in Rock Island and Los Angeles. His project experience includes:

Peer Review and Auditing for Permanent Canal Closures Pump Station, New Orleans, LA - Lead hydraulic engineer who performed independent technical review of the proposed 17th Street permanent pump station closure complex. Mike utilized his capabilities in computational fluid dynamic modeling of open channels. The technical review consisted of determining the reasonableness of analysis and design of the closure complex gravity flow gates which was analyzed using the Ansys Fluent 3-D computational fluid dynamic program and the preliminary design analysis which was performed using 1-d open channel program HEC-RAS.

Honda Water Infrastructure Improvements, Greensburg, IN - Civil engineer who evaluated water supply sources and infrastructure to determine a reliable source to serve the residential and industrial needs of the City of Greensburg. Surface water and groundwater alternatives were assessed. Water resources were assessed based on hydrologic information, municipal water demand forecasts and water source limitations. Due to increased use of the City of Greensburg's infrastructure from a new Honda Motor Company Plant, water and wastewater facilities needed to be upgraded and expanded. Water projects included a new 1 MG elevated water storage tank, 22,000 linear feet of 16-inch water main extension to the Honda site, a new 2.0 MGD ground water treatment plant, improvements to the two existing 1.8 MGD surface water plants, improvements to existing pump stations, and 45,300 linear feet of 24-inch raw water main extension. Wastewater projects included a 2 MGD regional lift station, interceptor sewers, 19,000 linear feet of 18-inch force main and expansion of the existing wastewater treatment plant from 4.0 to 8.9 MGD. The lift station was designed to initially serve the new Honda manufacturing facility as well

MIKE HRZIC, PE

Firm

HNTB Corporation

Education

MS, Civil Engineering (Water Resources), 2000, University of Wisconsin

BA, Physics, 1997, Illinois Wesleyan University

Registrations

Professional Engineer: WI, 2007 (#39137)

Affiliations

American Society of Civil Engineers
Society of American Military Engineers
Illinois Association of Floodplain Managers

Date Hired with HNTB

August 2006

Years with Other Firms

6

56.16

as serve as a regional lift station to future industrial parks around the Honda site. The lift station improvements included on-site emergency generator, and building to house VFDs, metering equipment and future chemical addition.

FEMA Temporary Mobile Home Site Development Minot, ND - Lead engineer responsible for hydrology and hydraulics. The project included three, 200-lot sites for new temporary mobile buildings and facilities as part of recovery efforts from Souris River flooding. Challenges consisted of finding a connecting water source capable of servicing needs of expected mobile homes, avoiding existing wetlands and drainage designs to prevent flooding impacts further downstream. Designs for all three sites were completed under an extremely aggressive schedule - less than two weeks per site to a construction start prior to winter. Engineering support during bidding and construction was provided.

I-95 Philadelphia Bathtub Pump Stations, Philadelphia, PA - Hydraulic engineer who performed hydrologic analysis for existing pump stations in urban Philadelphia to evaluate current performance and viability to improve pumping capacity to meet current stormwater requirements. Mike led the hydrologic study and analysis to determine existing current pumping capacity and necessary pumping requirements. Technical services also involved providing guidance in sizing pump units and motor sizes, piping improvements and constructability. Five pump stations were studied with station pump capacity ranging from 7,000 to 27,000 gpm.

Salton Sea Wetland Pump Station, Imperial Valley, CA - Hydraulic engineer who provided technical support for the analysis and evaluation of alternatives, and performed preliminary and final design for intakes, pipelines and pump stations to provide water from the Salton Sea and the New River to a 640-acre wetland.

Upper Des Plaines Pump Station Rehabilitation, Chicago, IL - Project engineer who oversaw the rehabilitation design. The project included pump replacement, upgrading flow monitoring devices, and design of overflow connections.

USACE New Orleans District IDIQ, New Orleans, LA - Project engineer who oversaw and performed hydraulic and hydrologic design tasks related to flood control improvements within the New Orleans District. Mike was involved with the West Closure Complex, South Sector Gate Pump Station final design, Hero Canal to Oakville, LA, pump station design, and Diamond Pump Station rehabilitation. Mike was responsible for hurricane surge assessment, pump station design and interior drainage design.

Sycamore and Birch Streets Stormwater Improvements, Westfield, IN - Project engineer who performed water modeling for conceptual and final design of a stormwater system, including storm sewers, subsurface drains and a dry detention pond to collect and convey surface runoff from an existing subdivision to the environment.

MIKE HRZIC, PE

MATT DURNING, PE

Senior Electrical Engineer

Matt has more than 27 years of diverse electrical engineering and project management experience with power distribution, lighting, controls and telecommunications projects. His project experience includes:

FEMA Temporary Mobile Home Site Development Minot, ND - Electrical engineer who designed the power distribution system for a lift station, roadway lighting, and 600 temporary trailers. The project included three, 200-lot sites for new temporary mobile buildings and facilities as part of recovery efforts from Souris River flooding. Challenges consisted of finding a connecting water source capable of servicing needs of expected mobile homes, avoiding existing wetlands and drainage designs to prevent flooding impacts further downstream. Designs for all three sites were completed under an extremely aggressive schedule - less than two weeks per site to a construction start prior to winter. Engineering support during bidding and construction was provided.

Partial Demolition of Two Inactive Water Intake Crib Structures Located in Lake Michigan, Chicago, IL - Electrical engineer who designed two similar solar power systems consisting of a pair of redundant solar arrays, redundant obstruction lights, redundant fog horns, one battery plant, and one controller. The installation included all provisions necessary to put a third string of solar panels into service. All items are electrically bonded and protected from lightning damage. A private cellular network will be created to allow for shore-based alarming by a network isolated, intelligent alarm display device. The design included means for protecting against galvanic reaction between dissimilar metals. HNTB is responsible for the investigation, permitting, design and engineering services during construction for the demolition of two inactive water intake crib structures located 2.5 to four miles out in Lake Michigan at Wilson Avenue and Four-Mile.

Flood Control Project on Farmers and Prairie Creeks, Chicago, IL - Electrical engineer responsible for electric utility coordination and electrical elements of the pump station design. The project involves high water surface elevation of Lake Mary Ann, which floods 12 structures; high water surface profiles along Farmers Creek from Prairie Creek to I-294, which floods four structures; high water surface profiles along Prairie Creek from Farms Creek to Lutheran General Hospital, which floods 102 structures, including transportation structures; high water surface profiles Prairie Creek upstream of Lutheran General Hospital, which floods 15 structures, including transportation structures.

Willow Creek Relocation, Chicago, IL - Electrical engineer who provided design and construction phase services associated with the relocation of approximately 9,000 feet of Willow Creek at Chicago-O'Hare International Airport. The relocation was to enable the construction of two proposed runways, a taxiway, and two roads in the North Airfield. Matt coordinated

MATT DURNING, PE

Firm

HNTB Corporation

Education

MBA, 1995, Benedictine University
BS, Electrical Engineering, 1989,
Purdue University

Professional Registrations

Professional Engineer: IL, TN, MA,
ME, WI, HI, MI, RI, MN

Professional Affiliations

Institute of Electrical and Electronics
Engineers, Industrial Applications
Engineering Society

Hire Date with HNTB

December 2000

Years of Experience with other Firms

11

78.08

load and ductbank routing among electrical designers from several firms and completed design for a replacement lift station.

Chicago Botanic Garden Pump House Electrical, Cook County, IL - Electrical engineer responsible for electrical aspects of a new pump house to draw directly from an aquifer. Tasks included coordination with electric utility; developing plans, details, specifications, and cost estimates; shop drawing reviews and RFI response; and working with architects maintain code required clearances while minimizing building size.

Stickney Water Reclamation Plant Computer and Instrument Control System, Stickney, IL - Electrical engineer responsible for the development of plans and details for the upgrade of existing low-voltage power distribution and motor control equipment. Diagram types included single-line diagrams, motor control circuits, controller diagrams, wall elevations, distributed process control input/output schedules, breaker schedules, conduit and cable schedules, and wiring diagrams.

Southwest Light Rail Transit (LRT) Peer Review, Minneapolis, MN - Station electric and site lighting review task lead for this project where HNTB is providing peer review services to the Met Council. The Southwest LRT line is approximately 15 miles and will run from downtown Minneapolis through the southwestern suburbs with 17 stations. It is an important link in the local transit system as the Minneapolis-St. Paul area 2030 growth projections indicate a 37% increase in travel within the region's transportation system.

Chicago-O'Hare International Airport Runway 9C-27C, Chicago, IL - Lead electrical engineer responsible for design of airfield lighting, electrical infrastructure, electrical vault modifications and NAVAID infrastructure. Matt also performs quality control review of all subconsultant electrical work. Electrical work includes runway edge lighting, taxiway edge lighting, signage, several miles of electrical ductbanks, lift stations, relocation of FAA fiber cables, new FAA instrument landing and visual approach systems, and electrical utility infrastructure. The project entails installation of a new 11,245-foot-long by 200-foot-wide Group VI, CAT II runway through the center of O'Hare's north airfield.

MATT DURNING, PE

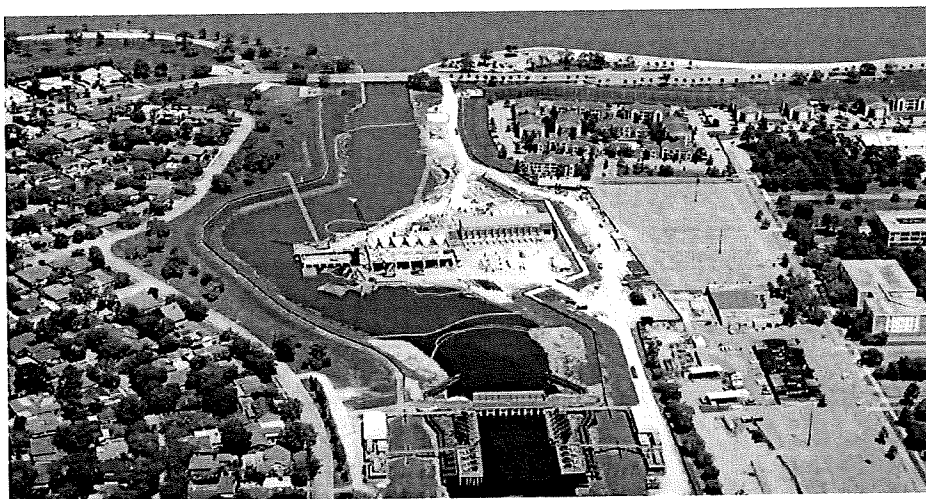
Peer Review and Auditing for Permanent Canal Closures Pump Station, New Orleans, LA

The three main outfall canals in New Orleans are a critical element of the flood control system, serving as drainage conduits for much of the city. The canals run south-to-north near the Orleans Parish lakefront between the Jefferson Parish line and the Inner Harbor Navigation Canal (IHNC) with floodwall-topped levees lining each canal. The 17th Street Canal extends 13,500 feet from Pump Station 6 to Lake Pontchartrain along the Jefferson Parish line. The Orleans Avenue Canal, between the 17th Street Canal and the London Avenue Canal, runs approximately 11,000 feet from Pump Station 7 to Lake Pontchartrain. The London Avenue Canal extends 15,000 feet north from Pump Station 3 to Lake Pontchartrain about halfway between the Orleans Avenue Canal and the IHNC.

The PCCP is composed of permanent gated storm surge barriers and pump stations near Lake Pontchartrain. The pump stations will discharge rainwater from the canals during weather associated with storm surge events. There are also stand-alone emergency power supply stations adjacent to the pump stations. The PCCP at 17th Street consists of six 1,800 cubic feet per second (cfs) pumps and two 900 cfs pumps for a total pumping capacity of 12,600 cfs; the PCCP at Orleans Avenue consists of three 900 cfs pumps for a total pumping capacity of 2,700 cfs; and the PCCP at London Avenue consists of four 1,800 cfs pumps and two 900 cfs pumps for a total pumping capacity of 9,000 cfs.

HNTB was retained by PCCP Constructors JV to peer review critical elements of design for the approximately \$615 million contract for design-build. Elements reviewed and advised on include:

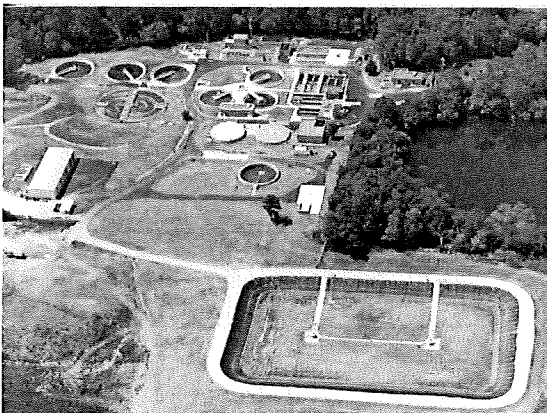
- T-wall design
- Pumps and gears
- Motor drives
- Temporary flood protection
- Pump station foundation
- Generator building foundation
- T-wall to levee transition
- Pumping unit vibration analysis
- Diesel exhaust fate modeling
- Seepage analysis and cutoff design
- Bypass Gates 1D, 2D, and 3D CFD modeling



Honda Water Infrastructure Improvements, Greensburg, IN

In the spring of 2006, the State of Indiana was in the running to bring a new Honda automobile plant to Greensburg. To make sure Honda chose Greensburg, HNTB helped the City identify infrastructure costs for the new Honda plant, expand a tax increment financing district to fund improvements, and assisted with the negotiations to ultimately bring the newest U.S. assembly plant for the American Honda Motor Co. Inc. to Greensburg. The following are brief descriptions of the infrastructure projects where HNTB provided planning, design, bid assistance, construction engineering and inspection for Greensburg to support the new Honda plant:

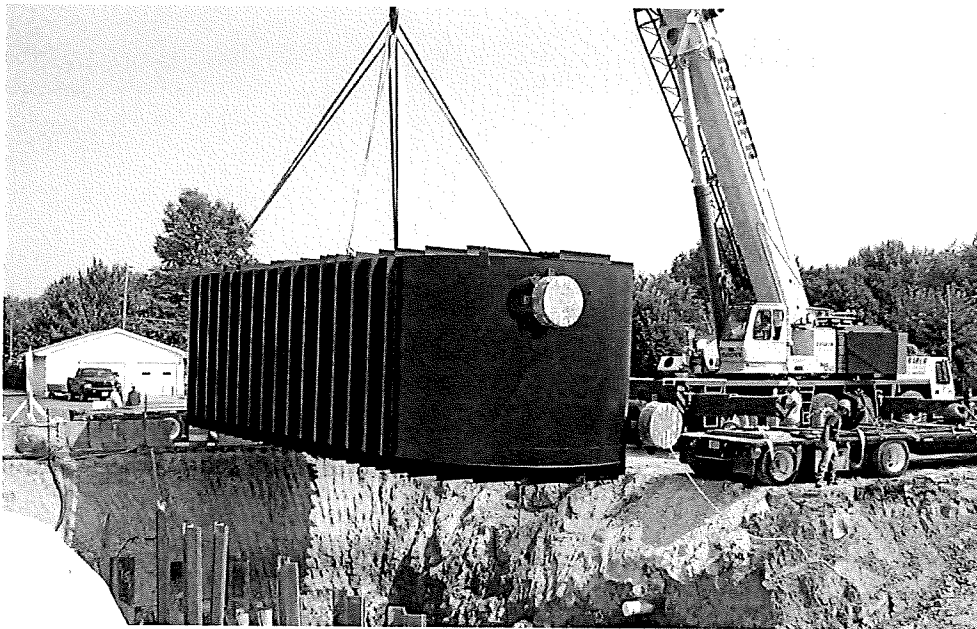
- **Waterworks Improvements Preliminary Engineering Report (PER)** - HNTB prepared a PER to improve and add to its existing raw water intake, transmission, storage and treatment infrastructure to meet the service area's increasing finished water demands due to the new Honda Plant.
- **Waterworks Improvements Source Water Study** - HNTB conducted a source water investigation to identify additional surface and groundwater supplies to provide more than triple the quantity due to the subsequent growth associated with the new Honda Plant.
- **Upland Water Main Extension** - 17,000 lineal feet of 16-inch finished water main to extend water service to the Honda site, and new elevated water storage tank.
- **Water Treatment Plant and Pump Stations** - A new, 2.0 MGD groundwater treatment plant and improvements to two existing 1.8 MGD surface water treatment plants, and upgrades to pumping systems at the existing reservoir pumping station and the surface water intake pumping station.
- **Flatrock Water Main** - A new 24-inch raw water main extending approximately 46,350 lineal feet from the intake to the treatment facilities. The installation included 13 directional drilling locations, and three interstate and state road crossings by jack and boring.
- **Wastewater Facilities Improvements PER** - HNTB prepared a PER for the expansion of Greensburg's wastewater collection to serve the area northwest of the City (Honda Site) and the expansion and upgrade of the existing collection system and wastewater treatment plant.
- **Westside Interceptor and Regional Lift Station** - A 2.0 MGD submersible regional lift station with electrical building and emergency generator, 20,000 lineal feet of 18-inch force main, and 1,000 lineal feet of gravity interceptors ranging from 18-inch to 48-inch.
- **Wastewater Treatment Plant** - Expansion of the wastewater treatment plant from 4.0 to 8.9 MGD, including a new headworks/screening facility, addition primary and secondary clarification, expansion of the activated sludge treatment system using a vertical loop reactor, improvements to the anaerobic digestion system, additional sludge thickening and new belt filter press dewatering. A new administration building and lab were also included in the design.



Campground to Volkman Road Water Main, Evansville, IN

HNTB designed improvements to Evansville's water distribution system to address growth needs in the northern and western pressure zones. The two pressure zones are experiencing rapid residential and industrial growth which could not be adequately served without the improvements. More specifically, HNTB designed a water main extension that runs from the southern edge of the city's northern service area to the northern extents to improve flow to the rapidly growing area.

The design consisted of five projects which included approximately 34,000 feet of 36-inch, 19,000 feet of 30-inch, 13,000 feet of 16-inch water main and two booster stations. The water main routes extend through downtown, old residential areas and up and through open agricultural areas. HNTB identified water mains and booster stations needed to supplement the existing infrastructure in the service areas and to support the anticipated future growth in a master plan prepared for the city



Attachment C

Sub-consultant/Sub-contractor List

NONE

Attachment D

Compensation and Fee Schedule for Services ("Fee Schedule")

Compensation and Fee Schedule

The Consultant's fees will be based on the total hours worked on the Project, including travel, plus expenses. The Consultant's current schedule of Hourly Fees and Charges follows on the next page. The actual hourly rates charged for individual employees will be based on their individual billing rates. The Consultant is responsible and has the discretion for the allocation of costs to individual work items based on needed work effort within the limits of the approved not to exceed values.

The Consultant's Fee for the Services described will not exceed \$: 75,000

1. Compensation for Additional Services not included in the Basic Services described in on the next page Additional Services agreed to by MGN, in writing, shall be compensated on an hourly basis for labor plus reimbursable expenses, in accordance with the Hourly Fees and Charges included with this attachment unless other compensation is agreed upon prior to performance of the services.

2. Reimbursable Costs*

Travel:	Cost
Filing Fees, Permits, Title Company Charges & Government	
Review Fees:	Cost
Reproductions:	Cost
Delivery Charges:	Cost
Outside Consultants:	Cost

*The Consultant may request reimbursement of these Reimbursable Costs, upon proper documentation, but such reimbursement shall be paid as part of the payment of and within the dollar amount of the Not-To-Exceed Fee.

Attachment E

Insurance Requirements for the Consultants, Sub-consultants and Sub-contractors

Insurance Requirements for the Consultant, Sub-consultants and Sub-contractors

A. Worker's Compensation as required by the Workers' Compensation Act of the State of Illinois 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 Consultant 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.

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 \$5,000,000 per occurrence and \$5,000,000 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 Agreement. **The policy shall be written on an "occurrence" basis, unless the policy that covers these Services is already in existence. If the existing policy is written on a claims-made form, the retroactive date must be equal to or preceding the Effective Date of this Agreement to cover the actual commencement date of any work and services that the Consultant or any sub-consultant has performed in regard to this Project.** If the policy is cancelled, non-renewed, or switched to an occurrence form, then the Consultant must purchase supplemental extending reporting period coverage for a period of not less than five (5) years after the Completion Date.

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. Village of Morton Grove, Village of Niles and the Morton Grove – Niles Water Commission as Additional Insureds. Village of Morton Grove, Village of Niles and the Morton Grove – Niles Water Commission shall be named as an Additional Insureds on all policies except for: Worker's Compensation and Professional Liability. Additional Insured endorsement shall identify the Additional Insureds as follows: Village of Morton Grove, including its former, current and future appointed and elected officials, officers, village president and trustees, employees, agents, engineers, attorneys and representatives ("Morton Grove Affiliates") and Village of Niles, including its former, current and future appointed and elected officials, officers, village president and trustees, employees, agents, engineers, attorneys and representatives ("Niles Affiliates") and the Morton Grove – Niles Water Commission, including its municipal members, its commissioners, appointed officials, its officers,

employees, agents, engineers, attorneys, and representatives ("MGNWC Commission Affiliates").

G. Primary Coverage. The insurance coverage must be primary with respect to the Village of Morton Grove and the Morton Grove Affiliates, the Village of Niles and the Niles Affiliates and the MGNWC and the MGNWC Affiliates. Any insurance or self-insurance maintained by the Village of Morton Grove, the Village of Niles and the MGNWC will be excess of the Consultant's insurance and will not contribute with it.

H. Reporting Failures. Any failure to comply with reporting provisions of any policy must not affect coverage provided to the Village of Morton Grove and the Morton Grove Affiliates, the Village of Niles and the Niles Affiliates and the MGNWC and the MGNWC Affiliates.

I. Severability of Interests/Cross Liability. The insurance must contain a Severability of Interests/Cross Liability clause or language stating that the insurance will apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's ability.

J. Acceptability of Insurers. Insurance is to be placed with insurers with a Best's rating of no less than A-, VII and licensed to do business in the State of Illinois.

K. Verification of Coverage. The Consultant must furnish the MGNWC with certificates of insurance naming the Village of Morton Grove and the Morton Grove Affiliates, the Village of Niles and the Niles Affiliates and the MGNWC and the MGNWC Affiliates as additional insureds and with original endorsements affecting coverage. The certificates and endorsements for each insurance policy must be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements may be on forms provided by the MGNWC and in any event must be received and approved by the MGNWC Representative and the MGNWC Attorney before any work commences. Other additional-insured endorsements may be utilized, if they provide a scope of coverage at least as broad as the coverage stated on the ISO Additional Insured Endorsements CG 2010 or CG 2026. The MGNWC reserves the right to request a full certified copy of each insurance policy and endorsement.

L. Sub-Consultants and Suppliers. The Consultant must include all sub-consultants/sub-contractors as insureds under its policies or must furnish separate certificates and endorsements for each sub-consultant/sub-contractor. All coverage for sub-consultant/sub-contractors are subject to all of the requirements stated in this Agreement, except that any non-engineer sub-consultants/sub-contractors shall not be obligated to provide professional liability insurance coverage that is required of the engineers.

NOTE #1: Upon execution of this Agreement, the Consultant shall furnish to Village of Morton Grove, Village of Niles and the MGNWC satisfactory proof of coverage of the above insurance requirements. Such proof shall consist of certificates executed by the respective insurance companies together with executed copies of an "Additional Insured Endorsement" in a form acceptable to the MGNWC Board. Said certificates shall expressly provide that, for the duration of this Agreement, the insurance policy shall not be suspended, cancelled or reduced in coverage or amount, except after thirty (30) calendar days prior notice by certified mail, return receipt requested, has been addressed and provided to the MGNWC Chair, the Village Administrator of Morton Grove and the Village Manager of Niles at their business addresses listed in Section 13 of this Agreement.

Attachment F

SERVICES CHANGE ORDER (FORM)

SERVICES CHANGE ORDER NUMBER _____

In accordance with Section ___ of the Agreement dated _____, 2017 between the MGNWC and the Consultant, the Parties agree to the following Services Change Order:

1. Change in Services: _____

2. Change in Project Schedule (attach schedule if appropriate): _____

3. Change in Completion Date: All Services must be completed on or before: _____, 20____
4. Change in Compensation: _____

ALL OTHER TERMS AND CONDITIONS OF THE AGREEMENT REMAIN UNCHANGED.

MGNWC

CONSULTANT

MGNWC Representative

Signature

Name (Printed or Typed)

Date

Date

If compensation change is greater than \$20,000 (individual request or in the aggregate) then Morton Grove's and Niles' Board of Trustees approval and Village Presidents signatures are required.

Village President

_____, 20____.
Date

Village President

_____, 20____.
Date

Attachment G
Contract Clauses Required by the Illinois Environmental Protection Agency ("IEPA")
for Incorporation into this Agreement

The IEPA Public Water Supply Loan Program required clauses are hereby incorporated into the Agreement and are as follows:

Audit and Access to Records Clause

- a. "Books, records, documents and other evidence directly pertinent to performance of PWSLP/WPCLP loan work under this agreement shall be maintained in accordance with generally accepted Accounting Principles. The Agency or any of its authorized representatives shall have access to the books, records, documents and other evidence for the purpose of inspection, audit and copying. Facilities shall be provided for access and inspection."
- b. "Audits conducted pursuant to this provision shall be in accordance with auditing standards generally accepted in the United States of America."
- c. "All information and reports resulting from access to records pursuant to the above shall be disclosed to the Agency. The auditing agency shall afford the engineer an opportunity for an audit exit conference and an opportunity to comment on the pertinent portions of the draft audit report."
- d. "The final audit report shall include the written comments, if any, of the audited parties."
- e. "Records shall be maintained and made available during performance of project services under this agreement and for three years after the final loan closing. In addition, those records that relate to any dispute pursuant to the Loan Rules Section 365/662.650 (Disputes) or litigation or the settlement of claims arising out of project performance or costs or items to which an audit exception has been taken, shall be maintained and made available for three years after the resolution of the appeal, litigation, claim or exception."

Covenant against Contingent Fees Clause

"The professional services contractor warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bonafide employees. For breach or violation of this warranty, the loan recipient shall have the right to annul this agreement without liability or in its discretion to deduct from the contract price or consideration or otherwise recover, the full amount such commission, percentage, brokerage, or contingent fee.

Certification Regarding Debarment, Suspension and Other Responsibility Matters¹

"The prospective participant certifies to the best of its knowledge and belief that it and its principals: (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency; (b) Have not within a three year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property. (c) Are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State or local) with commission of any of the offenses enumerated in

1: This requirement may be met through the inclusion of the following language in the contract, or through submitting a signed Form EPA 5700-49 to IEPA.

paragraph (b) of this certification; and (d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default. I understand that a false statement on this certification may be grounds for rejection of this proposal or termination of the award. In addition, under 18 USC Sec. 1001, a false statement may result in fine of up to \$10,000 or imprisonment for up to 5 years, or both."

USEPA Nondiscrimination Clause

"The contractor (engineer) shall not discriminate on the basis of race, color, national origin or sex in the performance of this contract. The contractor shall carry out applicable requirements of 40 CFR Part 33 in the award and administration of contracts awarded under EPA financial assistance agreements. Failure by the contractor to carry out these requirements is a material breach of this contract which may result in the termination of this contract or other legally available remedies"

USEPA Fair Share Percentage Clause

"The engineer agrees to take affirmative steps to assure that disadvantaged business enterprises are utilized when possible as sources of supplies, equipment, construction and services in accordance with the Public Water Supply Loan Program rules. As required by the award conditions of USEPA's Assistance Agreement with Illinois EPA, the engineer acknowledges that the fair share percentages are %5 for MBEs & 12% for WBEs"