

**RESOLUTION NO. 18-32**

**A RESOLUTION AUTHORIZING THE APPROVAL AND EXECUTION OF CONTRACT NO. 5B ENTITLED "PROCUREMENT OF MGNWC WATER SUPPLY TRANSMISSION MAIN LARGE VALVES" BETWEEN THE MORTON GROVE-NILES WATER COMMISSION AND DEZURIK APCO HILTON FOR THE MGNWC WATER TRANSMISSION MAIN AND FACILITY IMPROVEMENTS PROJECT**

**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

**WHEREAS**, the MGNWC Board of Commissioners has determined that it is advisable, necessary and in the best of the MGNWC to acquire property and construct water transmission mains and facility improvements including new water main lines, pump stations and a water storage standpipe, and to rehabilitate certain existing water main lines to construct and operate a public water supply system that connects the Villages of Morton Grove and Niles to the MGNWC's future water supplier, the city of Evanston ("the MGNWC Water Transmission Main and Facility Improvements Project" or the "Project") ; and

**WHEREAS**, the estimated cost of construction and installation of the Project, including engineering, legal, financial and other related expenses is \$96,200,000.00; and

**WHEREAS**, the MGNWC has applied for low interest loans from the Illinois Environmental Agency's Public Water Supply Loans State Revolving Fund to pay for a substantial portion of the Project and has been assigned a Project Loan Number of L175513; and

**WHEREAS**, on November 1, 2017 the MGNWC posted its Advertisement for Bids for Contract No. 5B, entitled "Procurement of MGNWC Water Supply Transmission Main Large Valves" for the procurement of large diameter (20-inch or larger) Valves for the MGNWC Water Transmission Main, and on December 20, 2017 the MGNWC received and opened bids for Contract No. 5B; and

**WHEREAS**, the Project Engineer, Stanley Consultants, Inc. reviewed the bids and has recommended awarding Contract No. 5B to DeZurik APCO Hilton for the contract amount of \$318,743.62. DeZurik APCO Hilton is the lowest responsive and responsible bidder, a duly registered contractor in the State of Illinois and possess the personnel, experience, expertise, and equipment to complete Contract No. 5B; and

**WHEREAS**, the MGNWC has received the final approval of the loan documents by the Illinois Environmental Agency's Public Water Supply Loans State Revolving Fund; and

**WHEREAS**, the MGNWC Board and DeZurik APCO Hilton have agreed to the terms of Contract No. 5B attached hereto as **Exhibit A**; and

**WHEREAS**, the Board of Commissioners of the Morton Grove-Niles Water Commission have the authority to enter into Contract No. 5B pursuant to Article VII, Section 10 of the 1970

Constitution of the State of Illinois, the Illinois Intergovernmental Cooperation Act (5 ILCS 220/1, *et seq.*) and the Illinois Municipal Code (65 ILCS 5/1, *et seq.*, including 65 ILCS 5/11-135-1, *et seq.*), and find that entering into Contract No. 5B is in the best interests of MGNWC, the Village of Morton Grove and the Village of Niles.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE MORTON GROVE-NILES WATER COMMISSION, COOK COUNTY, ILLINOIS, AS FOLLOWS:**

**SECTION 1:** 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.

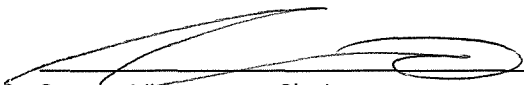
**SECTION 2:** The Board of Commissioners of the Morton Grove-Niles Water Commission ("MGNWC Board") authorize the approval of the economic terms and the attached form of Contract No. 5B, entitled "Procurement of MGNWC Water Supply Transmission Main Large Valves" (the "Agreement") for the purposes set forth in the Agreement, attached hereto as **Exhibit A**. The MGNWC Board authorize and direct the Chair, or his/her designee, and the Clerk to execute the final version of the Agreement, which may contain certain non-substantive and non-financial modifications that are approved by the Village Manager of Niles and the Village Administrator of Morton Grove, 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.

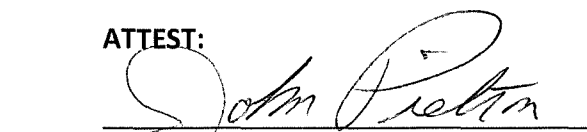
**SECTION 3:** This Resolution shall be in full force and effect from and after its adoption and approval as provided by law.

**ADOPTED** this 1st day of March 2018, pursuant to a roll call vote as follows:

**AYES:** John Pietron and Steven Vinezeano  
**NAYS:** None  
**ABSENT:** None (Cook County Appointee not appointed yet)

**PASSED** by the Board of Commissioners of the Morton Grove-Niles Water Commission, Cook County, Illinois on a roll call vote at a Regular Meeting thereof held on the 1st day of March 2018, and approved by the Chair, and attested by the Clerk on the same day.

  
Steven Vinezeano, Chair

**ATTEST:**  
  
John Pietron, Clerk

**Exhibit A**  
**CONTRACT NO. 5B**  
**“PROCUREMENT OF MGNWC WATER SUPPLY TRANSMISSION MAIN LARGE VALVES”**  
(attached)

**THIS AGREEMENT** is by and between Morton Grove-Niles Water Commission (MGNWC) ("Buyer") and DeZurik, Inc. ("Seller").

Buyer and Seller, in consideration of the mutual covenants hereinafter set forth, agree as follows:

#### **ARTICLE 1 - GOODS**

1.1 Seller shall furnish the Goods as specified or indicated in the Contract Documents.

#### **ARTICLE 2 - THE PROJECT**

2.1 The Project, of which the Goods may be the whole or only a part, is identified as Contract 5B – Procurement of MGNWC Water Supply Transmission Main Large Valves, which is a portion of the MGNWC Water Transmission Main and Facility Improvements.

#### **ARTICLE 3 - ENGINEER**

3.1 The Contract Documents for the Goods have been prepared by Stanley Consultants, Inc. ("Engineer"), and its subconsultants, which is to act as Buyer's representative, assume all duties and responsibilities, and have the rights and authority assigned to Engineer in the Contract Documents in connection with Seller's furnishing of Goods.

#### **ARTICLE 4 - POINT OF DESTINATION**

4.1 The Point of Destination shall be coordinated with the Buyer's Contractors engaged for Contracts 1, 2, and 3 of this Project. Goods shall be delivered to the locations and at the times agreed to by the Seller and the Buyer's Contractors within Cook County, Illinois.

#### **ARTICLE 5 - CONTRACT TIMES**

5.1 **Time of the Essence.** All time limits for Milestones, if any, including the submittal of Shop Drawings, the delivery of Goods as stated in the Contract Documents, are of the essence of the Contract.

##### **5.2 Milestones:**

A. *Days for Submittal of Shop Drawings.* The Seller shall submit all Shop Drawings required by the Contract Documents to Buyer for Engineer's review within 14 days after the date when the Contract Times commence to run as provided in Paragraph 2.04 of the General Conditions. It is the intent of the parties that (1) Engineer conduct such review and issue its acceptance, or a denial accompanied by substantive comments regarding information needed to gain acceptance, within 5 days of Seller's submittal of such Shop Drawings and Samples; and (2) resubmittals be limited whenever possible. If more than one resubmittal is necessary for reasons not the fault and beyond the control of Seller, then Seller shall be entitled to seek appropriate relief under Paragraph 7.02.B of the General Conditions.

B. *Days to achieve Delivery of Goods.* The Goods are to be delivered to the Point of Destination and ready for Buyer's Contractors receipt of delivery at the locations and on the multiple dates established and agreed to by the Buyer's Contractors and the Seller with deliveries beginning after March 1, 2018. Delivery of Goods will be coordinated with the Buyer's Contractors of Contracts 1, 2, and 3 of this Project.

##### **5.3 Buyer's Final Inspection:**

A. *Days to Achieve Final Inspection:* Buyer and Buyer's Contractors shall make their final inspection of the Goods pursuant to Paragraph 8.01.C of the General Conditions within 48 hours of the delivery of the Goods to the Project Points of Destination.

5.4 **Liquidated Damages.** Buyer and Seller recognize that Buyer will suffer financial loss if the Goods are not delivered at the Points of Destination and ready for receipt of delivery by Buyer's Contractors within the times specified in Paragraph 5.02 above, plus any extensions thereof allowed in accordance with Article 7 of the General Conditions. The parties also recognize that the timely performance of services by others involved in the Project is materially dependent upon Seller's specific compliance with the requirements of Paragraph 5.02.

Further, they recognize the delays, expense, and difficulties involved in proving the actual loss suffered by Buyer and its Contractors if complete acceptable Goods are not delivered on time. Accordingly, instead of requiring such proof, Buyer and Seller agree that as liquidated damages for delay (but not as a penalty) Seller shall pay Buyer \$1000 for each day that expires after the time specified in Paragraph 5.02.B for delivery of acceptable Goods.

#### ARTICLE 6 - CONTRACT PRICE

6.1 Buyer shall pay Seller for furnishing the Goods in accordance with the Contract Documents as follows:

- A. **Unit Price Work.** For all Unit Price Goods, and amount equal to the sum of the established unit price for each separately identified item of Unit Price Goods times the estimated quantity of that item as indicated in Section 00 43 22 - Unit Price Schedule, attached hereto as an exhibit. As provided in paragraph 11.03 of the General Conditions estimated quantities are not guaranteed, and determinations of actual quantities and classification are to be made by Engineer as provided in paragraph 9.08 of the General Conditions. Unit prices have been computed as provided in paragraph 11.03 of the General Conditions.

#### ARTICLE 7 - PAYMENT PROCEDURES

7.1 **Submittal and Processing of Payments.** Following the delivery of Goods, Seller shall submit Applications for Payment in accordance with Article 10 of the General Conditions and receipts for each truckload of Goods. Applications for Payment will be processed by Engineer as provided in the General Conditions.

7.2 **Progress Payments; Retainage.** Buyer shall make progress payments on account of the Contract Price on the basis of Seller's Applications for Payment as follows:

- A. Upon receipt of Application for Payments for delivered Goods submitted in accordance with Paragraph 10.01.A.1 of the General Conditions and accompanied by Engineer's recommendation of payment in accordance with Paragraph 10.02.A of the General Conditions, Applications for Payment received in the past month will be combined for payment in the current month in an amount equal to the received Goods, less such amounts as Engineer may determine in accordance with Paragraph 10.02.A.3 of the General Conditions.

7.3 **Final Payment.** Upon receipt of the final Application for Payment accompanied by Engineer's recommendation of payment, Buyer shall pay Seller the amount recommended by Engineer, less any sum Buyer is entitled to set off against Engineer's recommendation, including but not limited to liquidated damages.

#### ARTICLE 8 - INTEREST

8.1 All monies not paid when due as provided in Article 10 of the General Conditions shall bear interest at the statutory rate.

#### ARTICLE 9 - SELLER'S REPRESENTATIONS

9.1 In order to induce Buyer to enter into this Agreement, Seller makes the following representations:

- A. Seller has examined and carefully studied the Contract Documents and the other related data identified in the Bidding Documents, as applicable to Seller's obligations identified in Article 1 above.
- B. If required by the Bidding Documents to visit the Point of Destination and site where the Goods are to be installed, or if, in Seller's judgment, any local condition may affect cost, progress, or the furnishing of the Goods, Seller has visited the Point of Destination and site where the Goods are to be installed and become familiar with and is satisfied as to the observable local conditions that may affect cost, progress, and the furnishing of the Goods.
- C. Seller is familiar with and is satisfied as to all Laws and Regulations that may affect cost, progress, and the furnishing of the Goods.
- D. Seller has carefully studied, considered, and correlated the information known to Seller; information commonly known to sellers of similar goods doing business in the locality of the Point of Destination and the site where the Goods will be installed; information and observations obtained from Seller's visits, if any,

to the Point of Destination and site where the Goods are to be installed; and any reports and drawings identified in the Bidding Documents regarding the Point of Destination and the site where the Goods will be installed, with respect to the effect of such information, observations, and documents on the cost, progress, and performance of Seller's obligations under the Contract Documents.

- E. Seller has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Seller has discovered in the Contract Documents, and the written resolution (if any) thereof by Engineer is acceptable to Seller.
- F. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for furnishing Goods.

#### ARTICLE 10 - CONTRACT DOCUMENTS

10.1 **Contents:** The Contract Documents consist of the following:

- A. This Agreement (pages 1 to 5, inclusive).
- B. Performance Bond (pages 1 to 3, inclusive).
- C. Payment Bonds (pages 1 to 3, inclusive).
- D. General Conditions (pages 1 to 13, inclusive).
- E. Supplementary Conditions (pages 1 to 4, inclusive)
- E. Specifications as listed in Project Manual table of contents.
- G. Addenda number 1, inclusive.
- H. Exhibits to this Agreement (enumerated as follows):
  - 1. Seller's Bid Form with all attachments marked Exhibit A.
  - 2. Seller's Unit Price Schedule, solely as to the prices set forth therein (pages 1 to 2, inclusive) marked Exhibit B.
- I. The following which may be delivered or issued on or after the Effective Date of the Agreement and are not attached hereto:
  - 1. Notice to Proceed;
  - 2. Change Order(s).
  - 2. Work Change Directive(s).

10.2 The documents listed in paragraph 10.1 are attached to this Agreement (except as expressly noted otherwise above).

10.3 There are no Contract Documents other than those listed above in this Article 10.

10.4 The Contract Documents may only be amended, modified, or supplemented as provided in paragraph 3.04 of the General Conditions.

#### ARTICLE 11 - MISCELLANEOUS

11.1 **Terms.** Terms used in this Agreement will have the meanings indicated in the General Conditions.

11.2 **Successors and Assigns.** Buyer and Seller each binds itself, its partners, successors, assigns, and legal representatives to the other party hereto, its partners, successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

11.3 **Severability.** Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Buyer and Seller. The Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

11.4 **Seller's Certifications.**

- A. Seller certifies that it has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for or in executing the Contract. For the purposes of this Paragraph 11.05:
1. "corrupt practice" means the offering, giving, receiving, or soliciting of any thing of value likely to influence the action of a public official in the bidding process or in the Contract execution;
  2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the bidding process or the execution of the Contract to the detriment of Buyer, (b) to establish Bid or Contract prices at artificial non-competitive levels, or (c) to deprive Buyer of the benefits of free and open competition;
  3. "collusive practice" means a scheme or arrangement between two or more Bidders, with or without the knowledge of Buyer, a purpose of which is to establish Bid prices at artificial, non-competitive levels; and
  4. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

11.5 **Other provisions.**

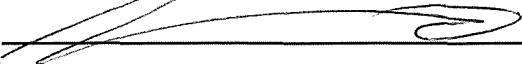
- A. The Seller shall not discriminate on the basis of race, color, national origin or sex in the performance of this contract. The Seller shall carry out applicable requirements of 40 CFR Part 33 in the award and administration of contracts awarded under EPA financial assistance agreements. Failure by the Seller 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.
- B. Seller shall conform to the requirements of the IEPA State Revolving Loan Fund program as detailed in Bid Form Attachments.

**IN WITNESS WHEREOF**, Buyer and Seller have signed this Agreement in duplicate. One counterpart each has been delivered to Buyer and Seller. All portions of the Contract Documents have been signed or identified by Buyer and Seller or on their behalf.

This Agreement will be effective on 03/02, 2018 (which is the Effective Date of the Agreement).

Buyer:  
**MORTON GROVE – NILES WATER COMMISSION**

Seller:  
**DEZURIK, INC.**

By: 

By: \_\_\_\_\_  
(CORPORATE SEAL)

Steven Vinezeano, Chair Morton Grove-Niles Water Commission

Attest 

Attest \_\_\_\_\_

John Pietron, Clerk Morton Grove-Niles Water Commission

Address for giving notices

Address for giving notices:  
Niles Village Hall Administrative Building  
1000 Civic Center Drive, Niles, Illinois 60714

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Agent for service of process: \_\_\_\_\_

*(If Owner is a corporation, attach evidence of authority to sign. If Owner is a public body, attach evidence of authority to sign and resolution or other documents authorizing execution of Owner-Contractor Agreement)*

*(If Seller is a corporation or a partnership attach evidence of authority to sign.)*

Designated Representative:

Designated Representative:

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Address: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Phone: \_\_\_\_\_

Phone: \_\_\_\_\_

Facsimile: \_\_\_\_\_

Facsimile: \_\_\_\_\_



STATE OF ILLINOIS )

) SS

COUNTY OF COOK )

**CLERK'S CERTIFICATE**

I, John Pietron, Clerk of the Morton Grove-Niles Water Commission, Cook County, State of Illinois, certify that the annexed and foregoing is a true and correct copy of that certain Resolution now on file in my office, entitled:

**RESOLUTION NO. 18-32**

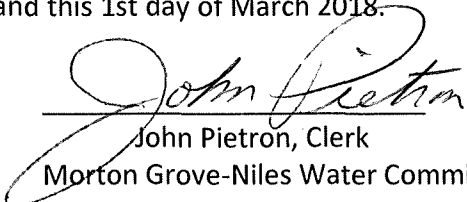
**A RESOLUTION AUTHORIZING THE APPROVAL AND EXECUTION OF CONTRACT NO. 5B ENTITLED "PROCUREMENT OF MGNWC WATER SUPPLY TRANSMISSION MAIN LARGE VALVES" BETWEEN THE MORTON GROVE-NILES WATER COMMISSION AND DEZURIK APCO HILTON FOR THE MGNWC WATER TRANSMISSION MAIN AND FACILITY IMPROVEMENTS PROJECT**

which Resolution was passed by the Board of Commissioners of the Morton Grove-Niles Water Commission at a Regular Meeting on the 1st day of March 2018, at which meeting a quorum was present. I further certify that the vote on the question of the passage of said Resolution by the Board of Commissioners of the Morton Grove-Niles Water Commission was taken by Ayes and Nays and recorded in the minutes of the Board of Commissioners of the Morton Grove-Niles Water Commission, and that the result of said vote was as follows, to-wit:

AYES: John Pietron and Steven Vinezeano  
NAYS: None  
ABSENT: None (Cook County Appointee not appointed yet)

I do further certify that the original Resolution, of which the foregoing is a true copy, is entrusted to my care for safekeeping, and that I am the lawful keeper of the same.

IN WITNESS WHEREOF, I have hereunto set my hand this 1st day of March 2018.

  
John Pietron, Clerk  
Morton Grove-Niles Water Commission

**RESOLUTION NO. 18-33**

**A RESOLUTION AUTHORIZING THE APPROVAL AND EXECUTION OF CONTRACT NO. 7 ENTITLED  
"MGNWC NAGLE AVENUE PUMP STATION" BETWEEN THE MORTON GROVE-NILES WATER  
COMMISSION AND JOSEPH J. HENDERSON & SON FOR THE MGNWC WATER TRANSMISSION  
MAIN AND FACILITY IMPROVEMENTS PROJECT**

**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

**WHEREAS**, the MGNWC Board of Commissioners has determined that it is advisable, necessary and in the best of the MGNWC to acquire property and construct water transmission mains and facility improvements including new water main lines, pump stations and a water storage standpipe, and to rehabilitate certain existing water main lines to construct and operate a public water supply system that connects the Villages of Morton Grove and Niles to the MGNWC's future water supplier, the city of Evanston ("the MGNWC Water Transmission Main and Facility Improvements Project" or the "Project"); and

**WHEREAS**, the estimated cost of construction and installation of the Project, including engineering, legal, financial and other related expenses is \$96,200,000.00; and

**WHEREAS**, the MGNWC has applied for low interest loans from the Illinois Environmental Agency's Public Water Supply Loans State Revolving Fund to pay for a substantial portion of the Project and has been assigned a Project Loan Number of L175513; and

**WHEREAS**, on November 1, 2017 the MGNWC posted its Advertisement for Bids for Contract No. 7, entitled "MGNWC Nagle Avenue Pump Station" for the construction and testing of a 12.7 MGD potable water pump station and associated site work including, but not limited to, pump station building, electrical, HVAC, controls, piping, associated appurtenances, and site restoration, and on December 20, 2017 the MGNWC received and opened bids for Contract No. 7; and

**WHEREAS**, the Project Engineer, Stanley Consultants, Inc. reviewed the bids and has recommended awarding Contract No. 7 to Joseph J. Henderson & Son for the contract amount of \$7,437,000.00. Joseph J. Henderson & Son is the lowest responsive and responsible bidder, a duly registered contractor in the State of Illinois and possess the personnel, experience, expertise, and equipment to complete Contract No. 7; and

**WHEREAS**, the MGNWC has received the final approval of the loan documents by the Illinois Environmental Agency's Public Water Supply Loans State Revolving Fund; and

**WHEREAS**, the MGNWC Board and Joseph J. Henderson & Son have agreed to the terms of Contract No. 7 attached hereto as **Exhibit A**; and

**WHEREAS**, the Board of Commissioners of the Morton Grove-Niles Water Commission have the authority to enter into Contract No. 7 pursuant to Article VII, Section 10 of the 1970 Constitution of the State of Illinois, the Illinois Intergovernmental Cooperation Act (5 ILCS 220/1, *et seq.*) and the Illinois Municipal Code (65 ILCS 5/1, *et seq.*, including 65 ILCS 5/11-135-1, *et seq.*), and find that entering into Contract No. 7 is in the best interests of MGNWC, the Village of Morton Grove and the Village of Niles.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE MORTON GROVE-NILES WATER COMMISSION, COOK COUNTY, ILLINOIS, AS FOLLOWS:**

**SECTION 1:** 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:** The Board of Commissioners of the Morton Grove-Niles Water Commission ("MGNWC Board") authorize the approval of the economic terms and the attached form of Contract No. 7, entitled "MGNWC Nagle Avenue Pump Station" (the "Agreement") for the purposes set forth in the Agreement, attached hereto as **Exhibit A**. The MGNWC Board authorize and direct the Chair, or his/her designee, and the Clerk to execute the final version of the Agreement, which may contain certain non-substantive and non-financial modifications that are approved by the Village Manager of Niles and the Village Administrator of Morton Grove, 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 3:** This Resolution shall be in full force and effect from and after its adoption and approval as provided by law.

**ADOPTED** this 1st day of March 2018, pursuant to a roll call vote as follows:

**AYES:** John Pietron and Steven Vinezeano  
**NAYS:** None  
**ABSENT:** None (Cook County Appointee not appointed yet)

**PASSED** by the Board of Commissioners of the Morton Grove-Niles Water Commission, Cook County, Illinois on a roll call vote at a Regular Meeting thereof held on the 1st day of March 2018, and approved by the Chair, and attested by the Clerk on the same day.

  
Steven Vinezeano, Chair

**ATTEST:**   
John Pietron, Clerk

**EXHIBIT A**  
**CONTRACT NO. 7**  
**"MGNWC NAGLE AVENUE PUMP STATION"**  
**(attached)**

**THIS AGREEMENT** is by and between Morton Grove-Niles Water Commission Project (Owner) and Joseph J. Henderson & Son, Inc. (Contractor). Owner and Contractor hereby agree as follows:

#### **ARTICLE 1 - WORK**

1.1 Contractor shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as the fabrication, transportation, field erection, and testing of a 12.7 MGD drinking water pump station and associated site work. Site work includes, but is not limited to, pump station building, electrical, HVAC, controls, piping, associated appurtenances, and site restoration.

#### **ARTICLE 2 - THE PROJECT**

2.1 The Project for which Work under the Contract Documents may be the whole or only a part is generally described as Contract 7; MGNWC Nagle Avenue Pump Station; MGNWC Water Transmission Main and Facility Improvements Project.

#### **ARTICLE 3 - ENGINEER**

3.1 The Project has been designed by Stanley Consultants, Inc.

3.2 The Owner has retained Stanley Consultants, Inc. (Engineer) to act as Owner's representative, assume all duties and responsibilities, and have the rights and authority assigned to Engineer in the Contract Documents in connection with completion of the Work in accordance with the Contract Documents.

#### **ARTICLE 4 - CONTRACT TIMES**

4.1 *Time of the Essence.* All time limits for Milestones, if any, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.

4.2 *Contract Times: Dates.*

- A. Substantial Completion: The Work will be substantially complete (pump station shall be tested, disinfected and ready for use) no later than 305 days after the Notice to Proceed.
- B. Final Completion: The Work will be completed and ready for final payment in accordance with paragraph 15.06 of the General Conditions no later than 515 days after the Notice to Proceed.

4.3 *Liquidated Damages.* Contractor and Owner recognize that time is of the essence as stated in Paragraph 4.1 above and that Owner will suffer financial and other losses if the Work is not completed within the times specified in Paragraphs 4.2 above, plus any extensions thereof allowed in accordance with the Contract. The parties also recognize the delays, expense, and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by Owner if the Work is not completed on time. Accordingly, instead of requiring any such proof, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty):

- A. Substantial Completion: Contractor shall pay Owner \$1,000 for each day that expires after the time (as duly adjusted pursuant to the Contract) specified in Paragraph 4.2 above for Substantial Completion until the Work is substantially complete.
- C. Completion of Remaining Work: After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Time (as duly adjusted pursuant to the Contract) for completion and readiness for final payment, Contractor shall pay Owner \$1,000 for each day that expires after such time until the Work is completed and ready for final payment.
- D. Liquidated damages for failing to timely attain the Contract Times are additive and will be imposed concurrently.

4.4 After Contractor achieves Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Times, Contractor shall reimburse Owner for the actual costs reasonably incurred by Owner for engineering, construction observation, inspection, and administrative services needed after the time specified in Paragraph 4.02 for Work to be completed and ready for final payment (as duly adjusted pursuant to the Contract), until the Work is completed and ready for final payment.

#### **ARTICLE 5 - CONTRACT PRICE**

5.1 Owner shall pay Contractor for completion of the Work in accordance with the Contract Documents the amounts that follow, subject to adjustment under the Contract:

- A. For all Work, a Lump Sum of Seven Million Four Hundred Thirty-Seven Thousand Dollars (\$7,437,000).

#### **ARTICLE 6 - PAYMENT PROCEDURES**

6.1 *Submittal and Processing of Payments.* Contractor shall submit Applications for Payment in accordance with Article 15 of the General Conditions. Applications for Payment will be processed by Engineer as provided in the General Conditions.

6.2 *Progress Payments; Retainage.* Owner shall make progress payments on account of the Contract Price on the basis of Contractor's Applications for Payment on or about the 30th day of each month during performance of the Work as provided in Paragraph 6.2.A.1 below, provided that such Applications for Payment have been submitted in a timely manner and otherwise meet the requirements of the Contract. All such payments will be measured by the Schedule of Values established as provided in the General Conditions (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no Schedule of Values, as provided elsewhere in the Contract.

- A. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below, but, in each case, less the aggregate of payments previously made and less such amounts as Owner may withhold, including but not limited to liquidated damages, in accordance with the Contract:
  - 1. 90% percent of Work completed (with the balance being retainage). If the Work has been 80 percent completed as determined by Engineer, and if the character and progress of the Work have been satisfactory to Owner and Engineer, then as long as the character and progress of the Work remain satisfactory to Owner and Engineer, there will be no additional retainage; and
  - 2. 95% percent of Work completed (with the balance being retainage). If the Work has been 81 percent completed as determined by Engineer, and if the character and progress of the Work have been satisfactory to Owner and Engineer, then as long as the character and progress of the Work remain satisfactory to Owner and Engineer, there will be no additional retainage; and
  - 3. 90% of cost of materials and equipment not incorporated in the Work (with the balance being retainage).
- B. Upon Substantial Completion, Owner shall pay an amount sufficient to increase total payments to Contractor to 100% of the Work completed, less such amounts set off by Owner pursuant to paragraph 15.01. E. of the General Conditions and less 200% of Engineer's estimate of the value of Work to be completed or corrected as shown on the punch list of items to be completed or corrected prior to final payment.

6.3 *Final Payment.* Upon final completion and acceptance of the Work in accordance with paragraph 15.06 of the General Conditions, Owner shall pay the remainder of the Contract Price as recommended by Engineer as provided in said paragraph 15.06.

#### **ARTICLE 7 - INTEREST**

7.1 All amounts not paid when due shall bear interest at the maximum rate allowed by law at the place of the project.

#### **ARTICLE 8 - CONTRACTOR'S REPRESENTATIONS**

8.1 In order to induce Owner to enter into this Contract, Contractor makes the following representations:

- A. Contractor has examined and carefully studied the Contract Documents, and any data and reference items identified in the Contract Documents.
- B. Contractor has visited the Site, conducted a thorough, alert visual examination of the Site and adjacent areas, and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
- C. Contractor is familiar with and is satisfied as to all Laws and Regulations that may affect cost, progress, and performance of the Work.

- D. Contractor has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or adjacent to the Site and all drawings of physical conditions relating to existing surface or subsurface structures at the Site that have been identified in the Supplementary Conditions, especially with respect to Technical Data in such reports and drawings, and (2) reports and drawings relating to Hazardous Environmental Conditions, if any, at or adjacent to the Site that have been identified in the Supplementary Conditions, especially with respect to Technical Data in such reports and drawings.
- E. Contractor has considered the information known to Contractor itself; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Contract Documents; and the Site-related reports and drawings identified in the Contract Documents, with respect to the effect of such information, observations, and documents on (1) the cost, progress, and performance of the Work; (2) the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor; and (3) Contractor's safety precautions and programs.
- F. Based on the information and observations referred to in the preceding paragraph, Contractor agrees that no further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract.
- G. Contractor is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Contract Documents.
- H. Contractor has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, and the written resolution thereof by Engineer is acceptable to Contractor.
- I. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.
- J. Contractor's entry into this Contract constitutes an incontrovertible representation by Contractor that without exception all prices in the Agreement are premised upon performing and furnishing the Work required by the Contract Documents.

#### **ARTICLE 9 - CONTRACT DOCUMENTS**

9.1 *Contents:* The Contract Documents consist of the following:

- A. This Agreement (pages 1 to 5 , inclusive).
- B. Performance Bond (pages 1 to 3, inclusive).
- C. Payment Bond (pages 1 to 3, inclusive).
- D. General Conditions (pages 1 to 38, inclusive).
- E. Supplementary Conditions (pages 1 to 11, inclusive).
- F. USEPA SRF Certification Documents submitted with Bid.
- G. Specifications as listed in Project Manual table of contents.
- H. Drawings as listed on the Drawing List.
- I. Addenda numbers 1 to 4, inclusive.
- J. The following which may be delivered or issued on or after the Effective Date of the Agreement and are not attached hereto:
  - 1. Notice to Proceed.

2. Instructions to Contractors.
3. Change Orders.
4. Field Orders.

9.2 The documents listed in paragraph 9.1 are attached to this Agreement (except as expressly noted otherwise above).

9.3 There are no Contract Documents other than those listed above in this Article 9.

9.4 The Contract Documents may only be amended, modified, or supplemented as provided in the General Conditions.

#### ARTICLE 10 - MISCELLANEOUS

10.1 *Terms.* Terms used in this Agreement will have the meanings indicated in the General Conditions and the Supplementary Conditions.

10.2 *Assignment of Contract.* Unless expressly agreed to elsewhere in the Contract, no assignment by a party hereto of any rights under or interests in the Contract will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, money that may become due and money that is due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

10.3 *Successors and Assigns.* Owner and Contractor each binds itself, its successors, assigns, and legal representatives to the other party hereto, its successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

10.4 *Severability.* Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Contractor, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

10.5 *Contractor's Certification.* Contractor certifies that it has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for or in executing the Contract. For the purposes of this Paragraph 10.5:

- A. "corrupt practice" means the offering, giving, receiving, or soliciting of any thing of value likely to influence the action of a public official in the bidding process or in the Contract execution;
- B. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the bidding process or the execution of the Contract to the detriment of Owner, (b) to establish Bid or Contract prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition;
- C. "collusive practice" means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish Bid prices at artificial, non-competitive levels; and
- D. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

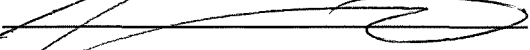
10.6 *Other Provisions.* Owner stipulates that the General Conditions that are made a part of this Contract are based on EJCDC® C-700, Standard General Conditions for the Construction Contract, published by the Engineers Joint Contract Documents Committee®, and Owner is the party that has furnished said General Conditions, and has plainly shown all modifications to the standard wording of such published document to the Contractor in the Supplementary Conditions.

**IN WITNESS WHEREOF**, Owner and Contractor have signed this Agreement. This Agreement will be effective on 03/02, 2018 (which is the Effective Date of the Agreement).




**OWNER:  
MORTON GROVE – NILES WATER COMMISSION**

**CONTRACTOR:  
JOSEPH J. HENDERSON & SON, INC.**

By:   
Steven Vinezeano, Chair Morton Grove-Niles Water  
Commission

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
*(If Contractor is a corporation, a partnership, or a joint venture,  
attach evidence of authority to sign.)*

Attest   
John Pietron, Clerk Morton Grove-Niles Water  
Commission

Attest \_\_\_\_\_  
Title: \_\_\_\_\_

Address for giving notices:

Address for giving notices:  
\_\_\_\_\_  
\_\_\_\_\_

Niles Village Hall Administrative Building  
1000 Civic Center Drive, Niles, Illinois 60714

*(If Owner is a corporation, attach evidence of authority to sign. If  
Owner is a public body, attach evidence of authority to sign and  
resolution or other documents authorizing execution of Owner-  
Contractor Agreement.)*

License No. \_\_\_\_\_  
*(Where applicable)*

END OF DOCUMENT

STATE OF ILLINOIS )

) SS  
COUNTY OF COOK )

**CLERK'S CERTIFICATE**

I, John Pietron, Clerk of the Morton Grove-Niles Water Commission, Cook County, State of Illinois, certify that the annexed and foregoing is a true and correct copy of that certain Resolution now on file in my office, entitled:

**RESOLUTION NO. 18-33**

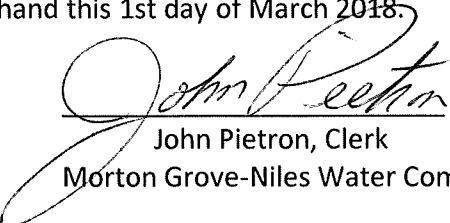
**A RESOLUTION AUTHORIZING THE APPROVAL AND EXECUTION OF CONTRACT NO. 7 ENTITLED "MGNWC NAGLE AVENUE PUMP STATION" BETWEEN THE MORTON GROVE-NILES WATER COMMISSION AND JOSEPH J. HENDERSON & SON FOR THE MGNWC WATER TRANSMISSION MAIN AND FACILITY IMPROVEMENTS PROJECT**

which Resolution was passed by the Board of Commissioners of the Morton Grove-Niles Water Commission at a Regular Meeting on the 1st day of March 2018, at which meeting a quorum was present. I further certify that the vote on the question of the passage of said Resolution by the Board of Commissioners of the Morton Grove-Niles Water Commission was taken by Ayes and Nays and recorded in the minutes of the Board of Commissioners of the Morton Grove-Niles Water Commission, and that the result of said vote was as follows, to-wit:

AYES: John Pietron and Steven Vinezeano  
NAYS: None  
ABSENT: None (Cook County Appointee not appointed yet)

I do further certify that the original Resolution, of which the foregoing is a true copy, is entrusted to my care for safekeeping, and that I am the lawful keeper of the same.

IN WITNESS WHEREOF, I have hereunto set my hand this 1st day of March 2018.

  
John Pietron, Clerk  
Morton Grove-Niles Water Commission