

RESOLUTION NO 18-52

AUTHORIZING THE APPROVAL AND EXECUTION OF A PROFESSIONAL SERVICE AGREEMENT BETWEEN THE MORTON GROVE-NILES WATER COMMISSION AND LAUTERBACH AND AMEN, LLP OF NAPERVILLE, ILLINOIS FOR AUDITING SERVICES FOR THE YEARS ENDING DECEMBER 31, 2017, 2018, AND 2019

WHEREAS, in 2017, the Morton Grove-Niles Water Commission (“MGNWC” or “Commission”) was established by the Village of Morton Grove, a home rule Illinois municipal corporation (“Morton Grove”), and the Village of Niles, a home rule Illinois municipal corporation (“Niles”), by the adoption of ordinances pursuant to Division 135 of Article 11 of the Illinois Municipal Code (65 ILCS 5/11-135-1, *et seq.*) (“Division 135”). The establishing ordinances are Morton Grove Ordinance 17-5, which was adopted on March 13, 2017, and Niles Ordinance No. 2017-19, which was adopted on March 14, 2017; and

WHEREAS, the MGNWC was established for purposes of constructing and operating a public water supply system consisting of water transmission mains, pumping, storage, and other related water delivery and receiving infrastructure between a connection point on the Evanston water system and existing water receiving points of Niles and Morton Grove and

WHEREAS, the MGNWC is required to prepare an annual audit of its finances for filing with the Comptroller of the State of (the “Annual Audit”); and

WHEREAS the MGNWC Superintendent solicited and obtained proposals from qualified auditing firms, to conduct Annual Audits for the fiscal years ending December 31, 2017, 2018, and 2019, and after reviewing these proposals has recommended the MGNWC retain the services of Lauterbach and Amen LLP to perform said Annual Audits; and

WHEREAS the MGNWC Superintendent has negotiated a Professional Service Agreement Lauterbach and Amen LLP. hereto as **Exhibit A**; and

WHEREAS, the governing board of the MGNWC find Lauterbach and Amen LLP is qualified and capable of providing Annual Audits for the MGNWC in a timely and professional manner, and the Superintendent recommends that the MGNWC Board enter into the agreement with Lauterbach and Amen LLP, attached hereto as Exhibit A (the Agreement); and

WHEREAS, the MGNWC Board has the authority to enter into the Agreement 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 finds that entering into the Agreement 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") authorizes the approval of the economic terms and the attached form of the Agreement entitled "A Professional Service Agreement Between the Morton Grove-Niles Water Commission and Lauterbach And Amen, LLP of Naperville, Illinois for Auditing Services for the Years Ending December 31, 2017, 2018, and 2019" 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.

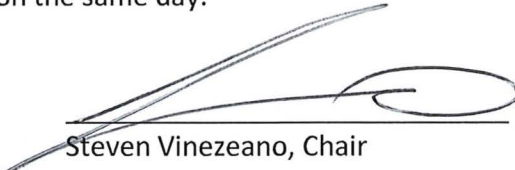
ADOPTED this 12th day of July 2018, pursuant to a roll call vote as follows:

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 12th day of July 2018, and approved by the Chair, and attested by the Clerk on the same day.


Steven Vinezeano, Chair

ATTEST:

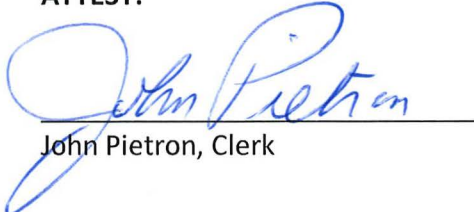

John Pietron, Clerk

Exhibit A
**PROFESSIONAL SERVICE AGREEMENT BETWEEN THE MORTON GROVE-NILES WATER
COMMISSION AND LAUTERBACH AND AMEN, LLP OF NAPERVILLE, ILLINOIS FOR
AUDITING SERVICES FOR THE YEARS ENDING DECEMBER 31, 2017, 2018, AND 2019**
(attached)

**PROFESSIONAL SERVICE AGREEMENT
BETWEEN THE MORTON GROVE-NILES WATER COMMISSION AND
LAUTERBACH AND AMEN, LLP FOR AUDITING SERVICES
FOR THE FISCAL YEARS ENDING DECEMBER 31, 2017, 2018, 2019**

THIS AGREEMENT dated as of the __th day of July 2018 (“Agreement”) is by and between the MORTON GROVE-NILES WATER COMMISSION (“MGNWC”) and LAUTERBACH AND AMEN, LLP, (“Consultant”)

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

1 PARTIES:

The parties to this Agreement and the address and contact information for each is as follows:

MGNWC: Morton Grove-Niles Water Commission
1000 Civic Center Drive
Niles, IL 6014

Contact: William Balling (“MGNWC Representative”)
847-836-7101
bill@wrblc.com

Consultant: Lauterbach and Amen, LLP
27W457 Warrenville Road
Warrenville, Illinois 60555

Contact: Ronald J. Amen
630-393-1483
ramen@lauterbachamen.com

2 PERFORMANCE OF SERVICES

2.1. Project Description. Consultant will provide all necessary services and to perform the work in connection with the project identified in and consistent with the Proposal dated June 2, 2018 incorporated by reference into this Agreement (“the Services”). The Service contemplated for this agreement shall pertain to actuarial reporting services for the MGNWC for the fiscal years ending December 31, 2017, 2018 and 2019. The Consultant represents that it is financially solvent, has the necessary financial resources, and is sufficiently experienced and competent to perform and complete the Services in a manner consistent with the standards of professional practice by recognized by the industry providing services of a similar nature.

- 2.2 Time of Performance. The Consultant's provision of Services shall commence upon the execution of this Agreement (the "Commencement Date"). The Consultant shall diligently and continuously prosecute the Services until the completion of the Work in accordance with deadlines established for particular tasks from time to time ("Time of Performance") The Time of Performance of this Agreement, unless terminated pursuant to the terms of this Agreement, shall expire on June 30, 2020. A determination of completion shall not constitute a waiver of any rights or claims the MGNWC may have or thereafter acquire with respect to any breach hereof by the Consultant or any right of indemnification of the MGNWC by the Consultant.
- 2.3 Early Termination. Notwithstanding any other provision hereof, the MGNWC may terminate this agreement at any time upon 15 days prior written notice to the Consultant. In the event that this agreement is so terminated, the Consultant shall be paid for the Services satisfactorily performed and reimbursable expenses actually incurred, if any, prior to termination, not exceeding the value of the Services completed as determined as provided in this agreement.
- 2.4 Suspension of Services. The MGNWC may, at any time, with or without cause, suspend all or any portion of services for a period of up to 90 days ("suspended services"). Consultant shall immediately stop the performance of the suspended services, until such time as the MGNWC issues direction to Consultant to resume the suspended services. Consultant shall take such action as is reasonably necessary to protect the suspended services and take such additional action as directed by the MGNWC.
- 2.5 Force Majeure. The MGNWC shall not be responsible for delay in the performance of its obligations under this agreement caused by a force majeure event. To the extent that the Services are delayed by a force majeure event, Consultant will be entitled to an equitable adjustment of the time for performance. For purposes of this agreement, a "force majeure event" is an occurrence or circumstance beyond the control of the claiming party and may include, but is not limited to extraordinary weather conditions, or other natural catastrophes, war, riots, strikes, lockouts, or other industrial disturbances.
- 2.6 Assignments; Coordination; Reporting. Assignments and tasks will be assigned to the Consultant by the MGNWC Representative. Consultant shall regularly report to and will coordinate all work through MGNWC Representative or his designee.
- 2.7 Quality Control Plans. When required by this Agreement, Consultant shall execute a quality control plan acceptable to the MGNWC that ensures the quality of its work products and activities. Prior to starting the performance of the Services, Consultant shall submit its quality control plan for the Services. Submission of the quality control plan to the MGNWC will not replace in any way Consultant's responsibility for quality control or for its work products and activities. Notwithstanding any review by the MGNWC, Consultant shall be responsible for the quality of the Services.

- 2.8 **Warranty of Services.** The Consultant warrants that the Services shall be performed in accordance with the highest standards of professional practice, care, and diligence practiced by recognized consulting firms in performing services of a similar nature in existence at the Time of Performance. The warranty expressed shall be in addition to any other warranties expressed in this agreement, or expressed or implied by law, which are hereby reserved unto the MGNWC.
- 2.9 **Mutual Cooperation.** The MGNWC agrees to cooperate with the Consultant in the performance of the Services, including meeting with the Consultant and providing the Consultant with such non-confidential information that the MGNWC may have that may be relevant and helpful to the Consultant's performance of the Services. The Consultant agrees to cooperate with the MGNWC in the performance of the Services and with any other Consultants engaged by the MGNWC.
- 2.10 **Amendment.** No amendment or modification to this agreement shall be effective unless and until such amendment or modification is approved in writing by the MGNWC Representative.
- 2.11 **No Additional Obligation.** The Parties acknowledge and agree that the MGNWC is under no obligation under this agreement or otherwise to negotiate or enter into any other or additional contracts or agreements with the Consultant, or with any vendor solicited or recommended by the Consultant.

3 COMPENSATION AND METHOD OF PAYMENT

- 3.1 **Agreement Amount.** The total amount billed by the CONSULTANT for the Services under this Agreement shall not exceed \$9,100 for the 2017 audit, \$9,400 for the 2018 audit and \$9,700 for the 2019 audit without the prior express written authorization of the MGNWC. Said amount includes reimbursable expenses
- 3.2 **Invoices and Payment.** The Consultant shall submit invoices to the MGNWC in an approved format for those portions of the Services performed and completed by the Consultant. The MGNWC shall pay to the Consultant the amount billed for completed and approved work within 30 days after its receipt and approval of an invoice for same.
- 3.3 **Records.** The Consultant shall maintain records showing actual time devoted and costs incurred and shall permit the authorized representative of the MGNWC to inspect and audit all data and records of the Consultant for work done under the Agreement. The records shall be made available to the MGNWC at reasonable times during the Agreement period, and for three years after the termination of the Agreement.

- 3.4 Claim for Additional Compensation. If the Consultant wishes to make a claim for additional compensation as a result of action taken by the MGNWC, the Consultant shall provide written notice to the MGNWC of such claim within 7 days after occurrence of such action, and no claim for additional compensation shall be valid unless made in accordance with this Subsection. Any changes in the agreement amount shall be valid only upon written amendment of this agreement approved by the MGNWC Representative. 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.
- 3.5 Taxes, Benefits and Royalties. The agreement amount includes all applicable federal, state, and local taxes of every kind and nature applicable to the Services as well as all taxes, contributions, and premiums for unemployment insurance, old age or retirement benefits, pensions, annuities, or similar benefits and all costs, royalties and fees arising from the use on, or the incorporation into, the Services, of patented or copyrighted equipment, materials, supplies, tools, appliances, devices, processes, or inventions. All claim or right to claim additional compensation by reason of the payment of any such tax, contribution, premium, costs, royalties, or fees is hereby waived and released by Consultant.

4 PERSONNEL AND SUBCONTRACTORS

- 4.1 Key Project Personnel. Key Project Personnel identified in this Agreement shall be primarily responsible for carrying out the Services on behalf of the Consultant. The key project personnel shall not be changed without the MGNWC's prior written approval.
- 4.2 Availability of Personnel. The Consultant shall provide all personnel necessary to complete the Services including, without limitation, any Key Project Personnel identified in this Agreement. The Consultant shall notify the MGNWC as soon as practicable prior to terminating the employment of, reassigning, or after receiving notice of the resignation of, any key project personnel. 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 the Time of Performance as a result of any such termination, reassigning, or resignation.

- 4.3 Approval and Use of Subcontractors. The Consultant shall perform the Services with its own personnel and under the management, supervision, and control of its own organization unless otherwise approved by the MGNWC in writing. All subcontractors and subcontracts used by the Consultant shall be acceptable to, and approved in advance by, the MGNWC. If any personnel or subcontractor fails to perform the Services in a manner satisfactory to the MGNWC, the Consultant shall immediately upon notice from the MGNWC remove and replace such personnel or subcontractor. The Consultant shall have no claim for damages, for compensation in excess of the amount contained in this agreement or for a delay or extension of the time of performance as a result of any such removal or replacement. The MGNWC's approval of any subcontractor or subcontract shall not relieve the Consultant of full responsibility and liability for the provision, performance, and completion of the Services as required by the agreement. All services performed under any subcontract shall be subject to all of the provisions of this agreement in the same manner as if performed by employees of the Consultant. For purposes of this agreement, the term "Consultant" shall be deemed also to refer to all subcontractors of the Consultant, and every subcontract shall include a provision binding the subcontractor to all provisions of this agreement.
- 4.4 MGNWC Authority. Notwithstanding any provision of this agreement, any negotiations or agreements with, or representations by the Consultant to any subcontractor, vendor or third party shall be subject to the approval of the MGNWC. The MGNWC shall not be liable to any subcontractor, vendor or other third party for any agreements made by the Consultant, purportedly on behalf of the MGNWC, without the knowledge and approval of the MGNWC.
- 4.5 Lien Waiver. Consultant shall promptly pay for all services, labor, materials and equipment used or employed by Consultant in the performance of the Services and shall maintain all materials, equipment, structures, buildings, premises and property of the MGNWC free and clear of mechanic's or other liens. Consultant shall, if requested, provide the MGNWC with reasonable evidence that all services, labor, materials and equipment have been paid in full.
- 4.6 Safety and Hazardous Materials. NOT APPLICABLE--INTENTIONALLY DELETED

5 RELATIONSHIP OF THE PARTIES

- 5.1 Independent Contractor. The Consultant shall act as an independent contractor in providing and performing the Services. Nothing in, nor done pursuant to, this Agreement shall be construed:
- A. To create the relationship of principal and agent, employer and employee, partners, or joint venturers between the MGNWC and Consultant; or
 - B. To create any relationship between the MGNWC and any subcontractor of the Consultant.
- 5.2 Conflict of Interest. The Consultant represents and certifies that, to the best of its knowledge:

- A. No employee or agent of the MGNWC is interested in the business of the Consultant or this agreement;
 - B. 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
 - C. 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.
- 5.3 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
- A. A delinquency in the payment of any tax administered by the Illinois Department of Revenue unless the Consultant is contesting, in accordance with the procedures established by the appropriate revenue act, its liability for the tax or the amount of the tax; or
 - B. 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.
 - C. 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 MGNWC for all loss or damage that the MGNWC may suffer, and this agreement shall, at the MGNWC's option, be null and void.
- 5.4 No Personal Liability. No elected or appointed official or employee of the MGNWC shall be personally liable, in law or in contract, to the Consultant as the result of the execution of this agreement.

6 INSURANCE AND INDEMNIFICATION

- 6.1 Insurance. Contemporaneous with the Consultant's execution of this agreement, the Consultant shall provide certificates and policies of insurance, all with coverages and limits acceptable to the MGNWC, and evidencing at least the minimum insurance coverages and limits as set forth in this Agreement to this agreement. For good cause shown, the MGNWC Representative may extend the time for submission of the required policies of insurance upon such terms, and with such assurances of complete and prompt performance, as the MGNWC Representative may impose in the exercise of his sole discretion. Such certificates and policies shall be in a form acceptable to the MGNWC and from companies with a general rating of A-, and a financial size category of Class X or better, in Best's Insurance Guide. Such insurance policies shall provide that no change, modification in, or cancellation of, any insurance shall become effective until the expiration of 30 days after written notice thereof shall have been given by the insurance company to the MGNWC. The Consultant shall at all times during the term of this

agreement, maintain and keep the insurance coverages provided above in force, at the Consultant's expense.

- 6.2 Indemnification. The Consultant shall, without regard to the availability or unavailability of any insurance, either of the MGNWC or the Consultant, indemnify, save harmless, and defend the MGNWC, and its respective officials, employees, agents, volunteers and attorneys against any and all lawsuits, claims, demands, damages, liabilities, losses, and expenses, including attorneys' fees and administrative expenses, that arise, or may be alleged to have arisen, out of or in connection with, the Consultant's performance of, or failure to perform, the Services or any part thereof, whether or not due or claimed to be due in whole or in part to the active, passive, or concurrent negligence or fault of the Consultant, except to the extent caused by the sole negligence of the MGNWC. The Consultant further agrees that to the extent that money is due the Consultant by virtue of this contract as shall be considered necessary in the judgment of the MGNWC, may be retained by the MGNWC to protect itself against said loss until such claims, suits, or judgments shall have been settled or discharged and/or evidence to that effect shall have been furnished to the satisfaction of the MGNWC.

7 USE AND DISCLOSURE OF INFORMATION

- 7.1 Confidential Information. The term "confidential Information" shall mean information in the possession or under the control of the MGNWC relating to the technical, business or corporate affairs of the MGNWC; property of the MGNWC; user information, including, without limitation, any information pertaining to usage of the MGNWC's computer systems, including and without limitation, any information obtained from server logs or other records of electronic or machine readable form; and the existence of, and terms and conditions of, this agreement. The MGNWC confidential information shall not include information that can be demonstrated: (i) to have been rightfully in the possession of the Consultant from a source other than the MGNWC prior to the time the MGNWC disclosed said information to the Consultant under this agreement ("time of disclosure"); (ii) to have been in the public domain prior to the time of disclosure; or (iii) to have become part of the public domain after the Time of Disclosure by a publication or by any other means except an unauthorized act or omission or breach of this agreement on the part of the Consultant.
- 7.2 No Disclosure of Confidential Information by the Consultant. The Consultant acknowledges that it shall, in performing the Services for the MGNWC under this agreement, have access to or be directly or indirectly exposed to confidential information. To the extent allowed by law, he Consultant shall hold confidential all confidential information and shall not disclose or use such Confidential Information without express prior written consent of the MGNWC. The Consultant shall use reasonable measures at least as strict as those the Consultant uses to protect its own confidential information. Such measures shall include, without limitation, requiring employees and subcontractors of the Consultant to execute a non-disclosure agreement before obtaining access to confidential information.

- 7.3 Illinois Freedom of Information Act (FOIA). FOIA applies to public records in the possession of a party with whom the MGNWC has contracted. The MGNWC will have only a very short period of time from receipt of a FOIA request to comply with the request, and there is a significant amount of work required to process a request including collating and reviewing the information. Consultant will comply with all requests made by the MGNWC for public records (as that term is defined by Section 2(c) of FOIA) in the Consultant's possession and will provide the requested public records to the MGNWC within two (2) business days of the request being made by the MGNWC. The undersigned agrees to indemnify and hold harmless the MGNWC from all claims, costs, penalty, losses and injuries (including but not limited to, attorney's fees, other professional fees, court costs and/or arbitration or other dispute resolution costs) arising out of or relating to its failure to provide the public records to the MGNWC under this agreement.
- 7.4 GIS Data. The MGNWC has developed digital map information through Geographic Information Systems Technology ("GIS Data") concerning the real property located within the MGNWC. If necessary to the performance of the Services and if requested to do so by the Consultant, the MGNWC may supply the Consultant with access to the GIS data. In such case the Consultant agrees as follows:
- A. Limited Access to and use of GIS data. The GIS data provided by the MGNWC shall be limited to the scope of the work that the Consultant is to provide for that the MGNWC, and the Consultant shall limit its use of the GIS data to its intended purpose of furtherance of the work; and
 - B. Trade Secrets of the MGNWC. The GIS data constitutes proprietary materials and trade secrets of that the MGNWC and, shall remain the property of that the MGNWC;
 - C. Consent of the MGNWC Required. The Consultant will not provide or make available the GIS Data in any form to anyone without the prior written consent of the MGNWC Representative;
 - D. Supply to the MGNWC. At the request of the MGNWC, the consultant shall supply that the MGNWC with any and all information that may have been developed by the Consultant based on the GIS data;
 - E. No Guarantee of Accuracy. The MGNWC make no guarantee as to the accuracy, completeness, or suitability of the GIS data in regard to the Consultant's intended use thereof; and
 - F. Discontinuation of Use. At such time as the Services have been completed to the satisfaction of the MGNWC, the Consultant shall cease its use of the GIS data for any purpose whatsoever; and, upon request, an authorized representative of the MGNWC shall be afforded sufficient access to the Consultant's premises and data processing equipment to verify that all use of the GIS data has been discontinued.
- 7.5 Ownership. Designs, drawings, plans, specifications, photos, reports, information, observations, calculations, notes, and any other documents, data, or information, in any form, prepared, collected, or received by the Consultant in connection with any or all of the Services to be performed under this agreement ("documents") shall be and remain the exclusive property of the MGNWC. At the MGNWC's request, or upon termination of this Agreement, the Consultant shall cause the documents to be promptly delivered to the MGNWC.

7.6 News Releases. The Consultant shall not issue any news releases or other public statements regarding the Services without prior approval from the MGNWC Representative.

8 COMPLIANCE WITH LAWS AND GRANTS

- 8.1 General Compliance. Consultant shall give all notices, pay all fees, and take all other action that may be necessary to ensure that the Services are provided, performed, and completed in accordance with all required governmental permits, licenses, or other approvals and authorizations that may be required in connection with providing, performing, and completing the Services, and with all applicable statutes, ordinances, rules, and regulations, including without limitation the Fair Labor Standards Act; any statutes regarding qualification to do business; any statutes prohibiting discrimination because of, or requiring affirmative action based on, race, creed, color, national origin, age, sex, or other prohibited classification, including, without limitation, the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101 et seq., and the Illinois Human Rights Act, 775 ILCS 5/1-101 et seq. Consultant shall be solely liable for any fines or civil penalties that are imposed by any governmental or quasi-governmental agency or body that may arise, or be alleged to have arisen, out of or in connection with Consultant's, or its subcontractors' performance of, or failure to perform, the Services or any part thereof. Every provision of law required by law to be inserted into this agreement shall be deemed to be inserted herein.
- 8.2 Grant Compliance. Consultant shall also comply with all conditions of any federal, state, or local grant received by the MGNWC or consultant with respect to this agreement or the Services.
- 8.3 Sexual Harassment Policy. The Consultant certifies that it has a written sexual harassment policy in full compliance with Section 2-105(A)(4) of the Illinois Human Rights Act, 775 ILCS 5/2-105(A)(4).

Patriot Act Compliance. The Consultant represents and warrants 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 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 MGNWC, its respective corporate authorities, and elected or appointed officials, officers, employees, agents, representatives, engineers, volunteers, 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.

- 8.4 Equal Employment Opportunity Compliance. During the performance of this agreement, Consultant as follows:
- A. That it will not discriminate against any employee or applicant for employment on the basis of race, age, marital status, color, religion, sex, sexual orientation, physical or mental handicap unrelated to ability, national origin or ancestry or an unfavorable discharge from military service; and further that it will examine all job classifications to determine if minorities or women are underutilized and shall take appropriate affirmative action to rectify any such underutilization.
 - B. That, if it hires additional employees in order to perform the Services or any portion hereof, it shall determine the availability (in accordance with the Department's rules) of minorities and women in the area(s) from which they may reasonably recruit, and it will hire for each applicable job classification for which employees are hired in such manner that minorities and women are not underutilized.
 - C. That, in all solicitations or advertisements for employees placed by it or on its behalf, it will state that all applicants will be afforded equal opportunity without discrimination based on race, color, religion, sex, sexual orientation, national origin or ancestry, marital status, age physical or mental handicap unrelated to ability or an unfavorable discharge from the military.
 - D. That it shall submit reports as required by the Department's Rules and furnish all relevant information as may from time to time be requested by the Department or the MGNWC, and in all respects comply with the Illinois Human Rights Act and the Department's Rules.
 - E. That it shall permit access to all relevant books, records, accounts and work sites by personnel of the Department and the MGNWC for purposes of investigation to ascertain compliance with the Illinois Human Rights Act and the Department's Rules.
 - F. That it shall include verbatim or by reference the provisions of this clause in every subcontract it awards under which any portion of the contract obligations are undertaken or assumed so that such provisions will be binding upon such subcontractor. In the same manner as with other provisions of this agreement, the Consultant will be liable for compliance with applicable provisions of this clause by such subcontractors; and further it will promptly notify the Department or the MGNWC in the event any subcontractor fails or refuses to comply therewith. In addition, no Consultant shall utilize any subcontractor declared by the Illinois Human Rights Commission to be ineligible for contracts or subcontracts with the State of Illinois or any of its political subdivisions or municipal corporations.
 - G. If the Consultant has not complied with all provisions of the Illinois Human Rights Act, or the Rules and Regulations of the Illinois Department of Human Rights "Department", the Consultant may be declared ineligible for future contracts or subcontracts with the MGNWC and this agreement may be cancelled or voided in whole or in part, and such other sanctions or penalties may be imposed or remedies invoked as provided by statute or regulation.

9 DEFAULT AND DISPUTE RESOLUTION

9.1 Default. If it should appear at any time that the consultant has failed, refused or delayed to perform, the Services any other requirement of this agreement with diligence at a rate that assures completion of the Services and full compliance of this agreement, (“event of default”), and fails to cure any such event of default within ten business days after the Consultant’s receipt of written notice of such event of default from the MGNWC, then the MGNWC shall have the right, without prejudice to any other remedies provided by law or equity, to pursue any one or more of the following remedies:

- A. Cure by Consultant. The MGNWC may require the Consultant, within a reasonable time, to complete or correct all or any part of the Services that are the subject of the event of default; and to take any or all other action necessary to bring the Consultant and the Services into compliance with this agreement.
- B. Termination of Agreement by the MGNWC. The MGNWC may terminate this agreement without liability for further payment of amounts due or to become due under this agreement.

Withholding of Payment by the MGNWC. The MGNWC may withhold from any payment, whether or not previously approved, or may recover from the Consultant, any and all costs, including attorneys’ fees and administrative expenses, incurred by the MGNWC as the result of any event of default by the Consultant or as a result of actions taken by the MGNWC in response to any event of default by the Consultant.

9.2 Dispute Resolution. Any dispute related to this Agreement shall, upon request by either party, be submitted to a panel consisting of at least one representative of each party who shall have the authority to enter into an agreement to resolve the dispute. In the event that the panel is unable to reach a mutual resolution of the dispute or has failed to convene within two weeks of the request of either party, either party may refer the matter to a court of appropriate jurisdiction. All communications between the parties or their representatives in connection with the attempted resolution of any dispute shall be confidential and deemed to have been delivered in furtherance of dispute settlement and shall be exempt from discovery and production and shall not be admissible in evidence whether as an admission or otherwise, in any arbitration, judicial or other proceeding for the resolution of the dispute.

9.3 During and dispute resolution period, or if litigation ensues, pending any final judicial decision or settlement, Consultant shall proceed diligently with the Services.

9.4 General Provisions.

- A. Any notice or communication required or permitted to be given under this Agreement shall be in writing and shall be delivered (i) personally to an authorized representative of the party; (ii) by certified mail addressed to the contact person listed in Section 1 of this agreement, return receipt requested, and deposited in the U.S. Mail, postage prepaid; (iii) by facsimile to a number provided by the contact person listed in Section 1 of this agreement, and deposited in the U.S. Mail, postage prepaid the recipient; or (iv) by electronic internet mail (“e-mail”) addressed to the contact person listed in Section 1 of this agreement, and deposited in the U.S. Mail, postage prepaid.

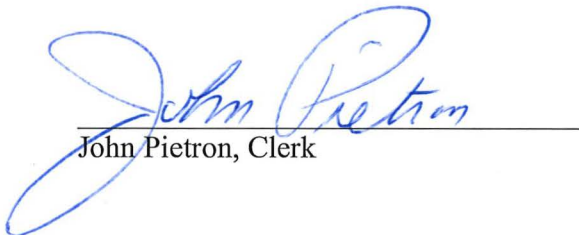
- B. Unless otherwise expressly provided in this Agreement, notices shall be deemed received upon the earlier of actual receipt or three business days following deposit in the U.S. mail.
 - C. By notice complying with the requirements of this Subsection, each Party shall have the right to change the address or the addressee, or both, for all future notices and communications to such party, but no notice of a change of addressee or address shall be effective until actually received. Notices and communications to the MGNWC shall be addressed to the party listed in Section 1 of this agreement.
- 9.5 Assignment. This Agreement may not be assigned by the MGNWC or by the Consultant without the prior written consent of the other party.
- 9.6 Third Party Beneficiary. No claim as a third-party beneficiary under this agreement by any person, firm, or corporation other than the Consultant shall be made or be valid against the MGNWC.
- 9.7 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.
- 9.8 Time. Time is of the essence in the performance of this Agreement.
- 9.9 Governing Laws. This agreement shall be interpreted according to the laws of the State of Illinois.
- 9.10 Binding Effect. The terms of this agreement shall bind and inure to the benefit of the Parties hereto and their agents, successors, and assigns.
- 9.11 Entire Agreement. This agreement constitutes the entire agreement between the parties and supersedes any and all previous or contemporaneous oral or written agreements and negotiations between either of the MGNWC and the Consultant with respect to the Proposal and the Services.
- 9.12 Waiver. No waiver of any provision of this agreement shall be deemed to or constitute a waiver of any other provision of this agreement (whether or not similar) nor shall any such waiver be deemed to or constitute a continuing waiver unless otherwise expressly provided in this Agreement.
- 9.13 Remedies. No remedies or rights conferred upon the MGNWC by this agreement are intended to be exclusive of any remedy or right provided by law or equity, but each shall be cumulative and shall be in addition to every other remedy or right given herein or now or hereafter existing at law or in equity.
- 9.14 Survival of Terms. Articles on Indemnity, Confidential Information and Rights in Data shall survive termination of this agreement.

- 9.15 Severability. The invalidity or unenforceability of any particular provision of this agreement shall not affect the other provisions, and this agreement shall be construed in all respects as if any invalid or unenforceable provision were omitted.
- 9.16 CONSULTANTS proposal is incorporated by reference into this Agreement. In the event of a conflict between CONSULTANTS proposal and the text of this agreement, the text of this agreement shall control.
- 9.17 Rights Cumulative. Unless expressly provided to the contrary in this agreement, each and every one of the rights, remedies, and benefits provided by this agreement shall be cumulative and shall not be exclusive of any other such rights, remedies, and benefits allowed by law.
- 9.18 Counterpart Execution. This agreement may be executed in several counterparts, each of which, when executed, shall be deemed to be an original, but all of which together shall constitute one and the same instrument.



MORTON GROVE -NILES WATER COMMISSION
By: Steven Vinezeano, Chair

Attest



John Pietron, Clerk

LAUTERBACH AND AMEN, LLP
By: Ronald J. Amen, Partner

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 attached and foregoing is a true and correct copy of that certain Resolution now on file in my office, entitled:

**RESOLUTION NO 18-52
AUTHORIZING THE APPROVAL AND EXECUTION OF A PROFESSIONAL SERVICE
AGREEMENT BETWEEN THE MORTON GROVE-NILES WATER COMMISSION AND
LAUTERBACH AND AMEN, LLP OF NAPERVILLE, ILLINOIS FOR AUDITING SERVICES FOR THE
YEARS ENDING DECEMBER 31, 2017, 2018, AND 2019**

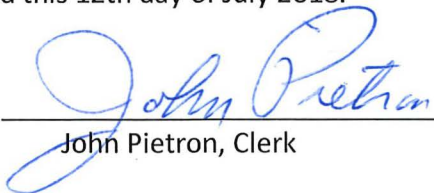
which Resolution was passed by the Board of Commissioners of the Morton Grove-Niles Water Commission at a Regular Meeting held on the 12th day of July 2018, at which meeting a quorum was present.

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 12th day of July 2018.



John Pietron, Clerk