

NORTHERN WILL COUNTY WATER AGENCY
JUNE 12, 2017
VILLAGE OF WOODRIDGE
5 PLAZA DRIVE, WOODRIDGE, IL 60517
11:00 A.M.
AGENDA

- I. CALL TO ORDER
- II. PLEDGE OF ALLEGIENCE
- III. ROLL CALL
- IV. APPROVAL OF MINUTES
 1. MARCH 13, 2017
- V. APPROVAL OF AGENDA
- VI. APPROVAL OF BILLS – EXHIBIT A
 1. TRESSLER - \$ 49,241.50
 2. ROBBINS SCHWARTZ - 3,170.00
 - TOTAL \$ 52,411.50
- VII. ACTION ITEMS
 1. MOTION TO ACCEPT TEASURERS REPORT
 2. MOTION TO APPROVE THE 2017 PREVAILING WAGE ORDINANCE 17-001
 3. MOTION TO ACCEPT THE 2016 FISCAL AUDIT PREPARED BY SIKICH LLP (SHORT PRESENTATION)
- VIII. CONSULTANT'S REPORT
- IX. ELECTION OF OFFICERS*
- X. FUTURE MEETING DATES
 1. SEPTEMBER 11, 2017 – BOLINGBROOK
 2. DECEMBER 11, 2017 – HOMER GLEN
 3. MARCH 12, 2018 – LEMONT
 4. JUNE 11, 2018 - ROMEOVILLE
- XI. QUESTIONS FROM THE AUDIENCE
- XII. MOTION TO GO INTO EXECUTIVE SESSION FOR THE PURPOSE OF DISCUSSING PENDING LITIGATION
- XIII. MOTION TO RECONVENE
- XIV. ADJOURNMENT

*CURRENT OFFICERS:

BRIAN REAVES, CHAIRMAN
GEORGE YUKICH, VICE CHAIRMAN
JOHN NOAK, SECRETARY
GINA CUNNINGHAM, TREASURER

* CITIZEN'S GUIDE TO ADDRESSING THE WATER AGENCY*

Anyone wishing to speak under agenda "Questions from the Audience" must adhere to the following guidelines:

- 1) Please announce your name and address before commenting – all comments under PUBLIC COMMENTS are limited to three (3) minutes and each citizen will only be permitted to speak once.
- 2) Questions must be submitted in writing and responses will be provided prior to the next meeting.
- 3) At the Water Agency meeting, all speakers must address their comments to the Chair. The Chair may request that the appropriate member of the Agency or Staff respond to the comment.
- 4) Please do not repeat comments that have already been made by others.

Northern Will County Water Agency
Regular Meeting Minutes
March 13, 2017

CALL TO ORDER

The meeting of the Northern Will County Water Agency was called to order at 11:00 a.m. on March 13, 2017, at the Romeoville Village Hall, 1050 W Romeo Rd, Romeoville by Mayor Roger Claar.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited.

ROLL CALL

Present were: Bolingbrook-Mayor Roger Claar
 Homer Glen-Michael Mertens, Village Manager
 Lemont-George Schafer, Village Administrator
 Romeoville-Kirk Openchowski, Finance Director
 Woodridge-Peggy Halik, Interim Village Administrator
 (Entered meeting at 11:05 a.m.)

Also Present were:

 Jim Boan-Attorney representing Northern Will County Water Agency
 Mike Zimmerman-Attorney for Tresslar LLP
 Stacy Williams-Attorney for Tresslar LLP
 Mike Drey-Consultant to the Northern Will County Water Agency
 Lucas Rickelman-Bolingbrook Director of Public Serv. & Dev.

Approval of Minutes

Motion Lemont, second Romeoville to approve the minutes of the December 12, 2016 meeting.

ROLL CALL VOTE:

Ayes 5 Bolingbrook, Homer Glen, Lemont, Romeoville
Nays 0 None
Absent 1 Woodridge

Motion Carried

APPROVAL OF AGENDA

Motion Romeoville, second Lemont to approve the agenda as submitted.

Voice vote. Motion carried.

BILL APPROVAL

Motion Romeoville, second Lemont to approve the bills in the amount of \$33,194.75 for the following:

Tressler LLP	\$19,014.75
Robbin-Schwartz	4,500.00
Advanced Discovery	<u>9,680.00</u>
	\$33,194.75

ROLL CALL VOTE:

Ayes 5 Bolingbrook, Homer Glen, Lemont, Romeoville, Woodridge
Nays 0
Absent 0

Motion Carried.

ACTION ITEM

Motion Lemont, second Romeoville to Accept the Treasurer's Year End Report

ROLL CALL VOTE:

Ayes 5 Bolingbrook, Homer Glen, Lemont, Romeoville, Woodridge
Nays 0
Absent 0

CONSULTANT'S REPORT

No Report.

MEETING SCHEDULE

It was announced that the next several meetings would be held as follows:

June 12, 2017-Woodridge
September 11, 2017-Bolingbrook
December 11, 2017-Homer Glen
March 12, 2018-Lemont

There were no conflicts with these dates from the NWCWA Commissioners.

QUESTIONS FROM AUDIENCE

None

EXECUTIVE SESSION

Motion Lemont, second Woodridge to move into Executive Session for the purpose of discussing pending litigation.

ROLL CALL VOTE:

Ayes 5 Bolingbrook, Homer Glen, Lemont, Romeoville, Woodridge

Nays 0

Absent 0

RECONVENE

Motion Woodridge, second Lemont to reconvene the meeting.

ROLL CALL VOTE:

Ayes 5 Bolingbrook, Homer Glen, Lemont, Romeoville, Woodridge

Nays 0

Absent 0

ADJOURNMENT

Motion Romeoville, second Woodridge to adjourn the meeting.

Voice vote. Motion carried, the meeting adjourned.

BREAKDOWN

BOLINGBROOK	78.689%	\$ 41,242.09
HOMER GLEN	20.546%	10,768.47
LEMONT	.059%	30.92
ROMEOVILLE	.022%	11.53
WOODRIDGE	.684%	<u>358.49</u>
	<u>TOTAL</u>	<u>\$ 52,411.50</u>



Attorneys at Law
233 South Wacker Drive, 22nd Floor
Chicago, Illinois 60606
(312) 627-4000
Fax (312) 627-1717
www.tresslerlp.com
FED I.D. No. 36-3447958
Invoice #: 382325
Client #: 008415

June 4, 2017

Village of Woodridge
Attn: Peggy Halik, Interim
5 Plaza Drive
Woodridge, IL 60517

Summary Statement

For professional services rendered through May 31, 2017:

Matter #		AR Balance	Fees	Expenses	Credits / Discounts	Total
00002	NORTHERN WILL COUNTY WATER AGENCY ACQUISITION FROM AMERICAN LAKE WATER COMPANY	33,978.50	15,263.00	0.00		\$49,241.50

Tressler | LLP

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FED I.D. No. 36-3447958
Invoice #: 382325

June 4, 2017
008415-00002

Village of Woodridge
Attn: Peggy Halik, Interim
5 Plaza Drive
Woodridge, IL 60517

FOR PROFESSIONAL SERVICES RENDERED:
RE: NORTHERN WILL COUNTY WATER AGENCY ACQUISITION FROM AMERICAN LAKE WATER
COMPANY

<u>Attorney/Paralegal</u>	<u>Hours</u>	<u>Rate</u>	<u>Total</u>
Zimmermann, Michael F.	5.50	265.00	1,457.50
Formeller, Daniel R.	6.70	295.00	1,976.50
Fineberg, Stacey	57.00	205.00	11,685.00
Hamilton, Katelyn, A.	1.80	80.00	144.00
Service Charges			\$15,263.00
Bill Summary:			
Total Fees:			15,263.00
Total:			\$15,263.00

Please reference Invoice # 382325 on your payment. Make checks payable to: Tressler LLP

A payment may also be made directly to our bank account using the following information:

Domestic Wire Transfer: JPMorgan Chase NA Chicago, IL ABA Routing # 021000021 Tressler LLP Account #656514395

Int'l Wire Transfer: same as Domestic include International Routing #: CHASUS33

ACH Transfer: JPMorgan Chase NA Chicago, IL ABA Routing # 071000013 Tressler LLP Account #656514395



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FED I.D. No. 36-3447958
Invoice #: 381595
Client #: 008415

May 2, 2017

Village of Woodridge
Attn: Peggy Halik, Interim
5 Plaza Drive
Woodridge, IL 60517

Summary Statement

For professional services rendered through April 30, 2017:

Matter #		AR Balance	Fees	Expenses	Credits / Discounts	Total
00002	NORTHERN WILL COUNTY WATER AGENCY ACQUISITION FROM AMERICAN LAKE WATER COMPANY	14,156.50	19,792.00	30.00		\$33,978.50

Tressler | LLP

Attorneys at Law
233 South Wacker Drive, 22nd Floor
Chicago, Illinois 60606
(312) 627-4000
Fax (312) 627-1717
www.tresslerllp.com

May 2, 2017
008415-00002

FED I.D. No. 36-3447958
Invoice #: 381595

Village of Woodridge
Attn: Peggy Halik, Interim
5 Plaza Drive
Woodridge, IL 60517

FOR PROFESSIONAL SERVICES RENDERED:
RE: NORTHERN WILL COUNTY WATER AGENCY ACQUISITION FROM AMERICAN LAKE WATER
COMPANY

<u>Attorney/Paralegal</u>	<u>Hours</u>	<u>Rate</u>	<u>Total</u>
Zimmermann, Michael F.	12.20	265.00	3,233.00
Formeller, Daniel R.	11.30	295.00	3,333.50
Letcher, Katherine, F.	5.00	205.00	1,025.00
Fineberg, Stacey	55.30	205.00	11,336.50
Hamilton, Katelyn, A.	10.80	80.00	864.00
Service Charges			\$19,792.00
<u>Disbursements</u>			
Filing Fee	Third District Appellate Court		30.00
Disbursement Charges			\$30.00
<u>Bill Summary:</u>			
Total Fees:			19,792.00
Total Disbursements:			30.00
Total:			\$19,822.00

Please reference Invoice # 381595 on your payment. Make checks payable to: Tressler LLP

A payment may also be made directly to our bank account using the following information:
Domestic Wire Transfer: JPMorgan Chase NA Chicago, IL ABA Routing # 021000021 Tressler LLP Account #656514395
Int'l Wire Transfer: same as Domestic include International Routing #: CHASUS33
ACH Transfer: JPMorgan Chase NA Chicago, IL ABA Routing # 071000013 Tressler LLP Account #656514395

Client/Matter: 008415-00002
Matter Name: NORTHERN WILL COUNTY WATER AGENCY ACQUISITION FROM AMERICAN
LAKE WATER COMPANY
Invoice #: 381595

THIS STATEMENT INCLUDES CHARGES FOR RECENT ACTIVITY ON THIS MATTER. LISTED BELOW ARE AMOUNTS REMAINING OUTSTANDING FROM PREVIOUS INVOICES. THE TOTAL AMOUNT NOW DUE IS LISTED BELOW. MAKE CHECKS PAYABLE TO TRESSLER LLP, 233 S. WACKER DRIVE, 22ND FLOOR, CHICAGO, IL 60606-6399

OUTSTANDING BALANCE	14,156.50
TOTAL OF CURRENT FEES	19,792.00
TOTAL OF CURRENT DISBURSEMENTS	30.00
TOTAL OF CURRENT INVOICE	\$19,822.00
TOTAL BALANCE DUE AS OF 05/02/17	\$33,978.50

Tressler | LLP

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Chicago, Illinois 60606
(312) 627-4000
Fax (312) 627-1717
www.tresslerllp.com
FED I.D. No. 36-3447958
Invoice #: 381070

April 13, 2017
008415-00002

Village of Woodridge
Attn: Peggy Halik, Interim
5 Plaza Drive
Woodridge, IL 60517

FOR PROFESSIONAL SERVICES RENDERED:
RE: NORTHERN WILL COUNTY WATER AGENCY ACQUISITION FROM AMERICAN LAKE WATER
COMPANY

<u>Attorney/Paralegal</u>	<u>Hours</u>	<u>Rate</u>	<u>Total</u>
Zimmermann, Michael F.	5.50	265.00	1,457.50
Formeller, Daniel R.	12.10	295.00	3,569.50
Letcher, Katherine, F.	0.70	205.00	143.50
Fineberg, Stacey	43.60	205.00	8,938.00
Hamilton, Katelyn, A.	0.60	80.00	48.00

Service Charges \$14,156.50

Bill Summary:

Total Fees: 14,156.50
Total: \$14,156.50

Please reference Invoice # 381070 on your payment. Make checks payable to: Tressler LLP

A payment may also be made directly to our bank account using the following information:
Domestic Wire Transfer: JPMorgan Chase NA Chicago, IL ABA Routing # 021000021 Tressler LLP Account #656514395
Int'l Wire Transfer: same as Domestic include International Routing #: CHASUS33
ACH Transfer: JPMorgan Chase NA Chicago, IL ABA Routing # 071000013 Tressler LLP Account #656514395



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Fax (312) 627-1717
www.tresslerllp.com
FED I.D. No. 36-3447958
Invoice #: 381070
Client #: 008415

April 13, 2017

Village of Woodridge
Attn: Peggy Halik, Interim
5 Plaza Drive
Woodridge, IL 60517

Summary Statement

For professional services rendered through March 31, 2017:

Matter #		AR Balance	Fees	Expenses	Credits / Discounts	Total
00002	NORTHERN WILL COUNTY WATER AGENCY ACQUISITION FROM AMERICAN LAKE WATER COMPANY	0.00	14,156.50	0.00		\$14,156.50

Robbins Schwartz

55 West Monroe Street, Suite 800
Chicago, IL 60603-5144
P: (312) 332-7760
F: (312) 332-7768
www.robbins-schwartz.com

Northern Will Co. Water Agency
c/o Village of Woodridge
5 Plaza Dr.
Attn: Peggy Halik
Woodridge, IL 60517

May 31, 2017

Client No: 008811
Invoice No: 275027 KMF
Billing Through: 04/30/2017

REMITTANCE COPY

Retainer - \$1,500 email DClary@vil.woodridge.il.us, jboan@bolingbrook.com

Legal services rendered for telephone conferences; correspondences; conferences; prepare for and attend meetings; perform legal research and analysis; review and prepare agreements.

CURRENT CHARGES	\$1,500.00
AMOUNT FOR THIS MATTER	<u>\$1,500.00</u>

CURRENT CHARGES FOR ALL MATTERS	\$1,500.00
TOTAL DUE	<u><u>\$1,500.00</u></u>

Robbins Schwartz

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Northern Will Co. Water Agency
c/o Village of Woodridge
5 Plaza Dr.
Attn: Peggy Halik
Woodridge, IL 60517

May 31, 2017

Client No: 008811
Invoice No: 275027 KMF
Billing Through: 04/30/2017

Retainer - \$1,500 email DClary@vil.woodridge.il.us, jboan@bolingbrook.com

**Legal services rendered for telephone conferences; correspondences; conferences;
prepare for and attend meetings; perform legal research and analysis; review and prepare
agreements.**

Balance as of last bill	04/24/2017	\$1,500.00
Payments Received	05/16/2017	\$1,500.00
Balance		\$0.00

CURRENT CHARGES	\$1,500.00
PAST BALANCE	\$0.00
AMOUNT FOR THIS MATTER	<u>\$1,500.00</u>

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www.robbsins-schwartz.com

Northern Will Co. Water Agency
c/o Village of Woodridge
5 Plaza Dr.
Attn: Peggy Halik
Woodridge, IL 60517

April 24, 2017

Client No: 008811
Invoice No: 274264 KMF
Billing Through: 03/31/2017

REMITTANCE COPY

Retainer - \$1,500 email DClary@vil.woodridge.il.us, jboan@bolingbrook.com

Legal services rendered for telephone conferences; correspondences; conferences; prepare for and attend meetings; perform legal research and analysis; review and prepare agreements.

CURRENT CHARGES	\$1,500.00
AMOUNT FOR THIS MATTER	\$1,500.00

8811.16002 Audit Letter

CURRENT CHARGES	\$170.00
AMOUNT FOR THIS MATTER	\$170.00

CURRENT CHARGES FOR ALL MATTERS	\$1,670.00
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TOTAL DUE	\$1,670.00
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Robbins Schwartz

55 West Monroe Street, Suite 800
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F: (312) 332-7768
www.robbsins-schwartz.com

Northern Will Co. Water Agency
c/o Village of Woodridge
5 Plaza Dr.
Attn: Peggy Halik
Woodridge, IL 60517

April 24, 2017

Client No: 008811
Invoice No: 274264 KMF
Billing Through: 03/31/2017

Retainer - \$1,500 email DClary@vil.woodridge.il.us, jboan@bolingbrook.com

Legal services rendered for telephone conferences; correspondences; conferences; prepare for and attend meetings; perform legal research and analysis; review and prepare agreements.

Balance as of last bill	03/17/2017	\$4,500.00
Payments Received	04/04/2017	\$3,000.00
A/R adjustments made		(\$1,500.00)
Balance		\$0.00

CURRENT CHARGES	\$1,500.00
PAST BALANCE	\$0.00
AMOUNT FOR THIS MATTER	<u>\$1,500.00</u>

FOR PROFESSIONAL SERVICES RENDERED

03/13/17 KMF Prepare letter to auditors. 1.00 hrs \$170.00 /hr \$170.00

Florey, Kenneth M. 1.00 hrs \$170.00 /hr \$170.00

\$170.00

CURRENT FEES

CURRENT CHARGES \$170.00

PAST BALANCE \$0.00

AMOUNT FOR THIS MATTER \$170.00

NORTHERN WILL COUNTY WATER AGENCY

TREASURER'S REPORT

January 1 - May 31, 2017

Meeting Date: June 12, 2017

BEGINNING CASH BALANCE (JAN 1, 2017)		<u>\$ 911,882.82</u>
REVENUES		
	2017 Budget	
	Village of Bolingbrook	78.689% 149,509.10
	Village of Homer Glen	20.546% 39,037.40
	Village of Woodridge	0.684% 1,299.60
	Village of Lemont	0.059% 112.10
	Village of Romeoville	0.022% 41.80
		<u>190,000.00</u>
	Interest	2,962.69
	TOTAL REVENUES	192,962.69
EXPENSES		
	Professional Services	
	Tressler LLP	19,014.75
	Robbins Schwartz	6,170.00
	Crowe Horwath	9,680.00
	Sikich LLP	4,000.00
		<u>38,864.75</u>
	TOTAL EXPENSES	38,864.75
ENDING CASH BALANCE (MAY 31, 2017)		<u>\$ 1,065,980.76</u>

PUBLISHED IN PAMPHLET FORM FOR THE FOLLOWING:

RESOLUTION NO. 17-001

TITLED:

2017 PREVAILING WAGE

NORTHERN WILL COUNTY WATER AGENCY

RESOLUTION NO. 17-001

2017 PREVAILING WAGE

WHEREAS, the State of Illinois has enacted "An Act regulating wages of laborers, mechanics and other workers employed in any public works by the State, county, city or any public body or any political subdivision or by anyone under contract for public works", approved June 26, 1941, as amended (820 ILCS 130/1 *et seq.*), hereinafter referred to as the "Act"); and

WHEREAS, the aforesaid Act requires that the Board of the Northern Will County Water Agency investigate and ascertain the prevailing rate of wages as defined in said Act for laborers, mechanics and other workers in the locality of said Agency employed in performing construction of public works for said Agency;

NOW, THEREFORE, BE IT RESOLVED BY THE CHAIRMAN AND BOARD OF THE NORTHERN WILL COUNTY WATER AGENCY, WILL COUNTY, ILLINOIS, AS FOLLOWS:

SECTION ONE: To the extent and as required by "An Act regulating wages of laborers, mechanics and other workers employed in any public works by the State, county, city or any public body or any political subdivision or by anyone under contract for public works", approved June 26, 1941, as amended, the general prevailing rate of wages in this locality for laborers, mechanics, and other workers engaged in the construction of public works coming under the jurisdiction of the Agency is hereby ascertained to be the same as the prevailing rate of wages for construction work in Will County areas as determined by the Department of Labor of the State of Illinois as of June 5, 2017, a copy of those determinations being attached hereto and incorporated herein by reference. As required by said Act, any and all revisions of the prevailing rate of wages by the Department of Labor of the State of Illinois shall supersede the Department's prior determinations and apply to any and all public works construction undertaken by the Agency. The definition of any terms appearing in this Resolution which are also used in the aforesaid Act shall be the same as in said Act.

SECTION TWO: Nothing herein contained shall be construed to apply said general prevailing rate of wages as herein ascertained to any work or employment except public works construction of this Agency to the extent required by the aforesaid Act.

SECTION THREE: The Agency shall publicly post or keep available for inspection by any interested party in the main office of the Agency this determination or any revisions of such prevailing rate of wage. A copy of this determination or of the current revised determination of prevailing rate of wages then in effect shall be attached to all contract specifications.

SECTION FOUR: The Agency shall mail a copy of this determination to any employer, and to any association of employers and to any person or association of employees who have filed their names and addresses, requesting copies of any determination stating the particular rates and the particular class of workers whose wages will be affected by such rates.

SECTION FIVE: The Agency shall promptly file a certified copy of this Resolution with the Department of Labor of the State of Illinois.

SECTION SIX: The Agency shall cause to be published in a newspaper of general circulation within the area a copy of this Resolution, and such publication shall constitute notice that the determination is effective and that this is the determination of this public body.

SECTION SEVEN: This Resolution shall be in full force and effect from and after its passage and approval in the manner provided by law.

PASSED THIS 12th day of June, 2017.

AYES:

NAYS:

ABSENT:

APPROVED THIS 12th day of June, 2017.

CHAIRMAN

ATTEST:

SECRETARY

Attachment

JM\647863\5/19/17

STATE OF ILLINOIS)
) SS
COUNTY OF WILL)

I, James Boan, Authorized Agent, certify that I am the Authorized Agent for the Northern Will County Water Agency.

I further certify that on June 12, 2017, the Corporate Authorities of such Agency passed and approved Resolution No. 17-001 entitled:

2017 PREVAILING WAGE

which provided by its terms that it should be published in pamphlet form.

DATED at Homer Glen, Illinois, this 12th day of June, 2017.

James Boan
Agency Attorney

This schedule contains the prevailing wage rates required to be paid for work performed on or after Monday, June 5, 2017 on public works projects in this County. Pursuant to 820 ILCS 130/4, public bodies in this County that have active public works projects are responsible for notifying all contractors and subcontractors working on those public works projects of the change (if any) to rates that were previously in effect. The failure of a public body to provide such notice does not relieve contractors or subcontractors of their obligations under the Prevailing Wage Act, including the duty to pay the relevant prevailing wage in effect at the time work subject to the Act is performed.

WILL COUNTY
 PREVAILING WAGE
 RATES EFFECTIVE JUNE
 5, 2017

Trade/Title	Region	Type	Class	Base Wage	Foreman Wage	M-F OT	OSA	OSH	H/W	Pension	Vacation	Training
ASBESTOS ABT-GEN	All	All	All	40.40	40.95	1.5	1.5	2.0	14.23	11.57	0.00	0.50
ASBESTOS ABT-MEC	All	BLD	BLD	37.46	39.96	1.5	1.5	2.0	11.62	11.06	0.00	0.72
BOILERMAKER	All	BLD	BLD	47.07	51.30	2.0	2.0	2.0	6.97	18.13	0.00	0.40
BRICK MASON	All	BLD	BLD	44.88	49.37	1.5	1.5	2.0	10.25	15.30	0.00	0.85
CARPENTER	All	All	All	45.35	49.89	2.0	2.0	2.0	11.99	19.68	0.00	0.63
CEMENT MASON	All	All	All	42.00	44.00	2.0	1.5	2.0	10.00	21.73	0.00	0.50
CERAMIC TILE FINISHER	All	BLD	BLD	37.81	37.81	1.5	1.5	2.0	10.55	10.12	0.00	0.65
COMMUNICATION TECH	All	BLD	BLD	34.25	35.75	1.5	1.5	2.0	14.12	12.03	1.41	0.72
ELECTRIC PWR EQMT OP	All	All	All	48.90	53.90	1.5	1.5	2.0	11.41	16.39	0.00	3.10
ELECTRIC PWR GRNDMAN	All	All	All	38.14	53.90	1.5	1.5	2.0	8.90	12.78	0.00	2.75
ELECTRIC PWR LINEMAN	All	All	All	48.90	53.90	1.5	1.5	2.0	11.41	16.39	0.00	3.10
ELECTRICIAN ELEVATOR	All	BLD	BLD	41.46	45.19	1.5	1.5	2.0	14.97	16.68	3.25	1.20
CONSTRUCTOR	All	BLD	BLD	51.94	58.43	2.0	2.0	2.0	14.43	14.96	4.16	0.90
GLAZIER	All	BLD	BLD	41.70	43.20	1.5	2.0	2.0	13.94	18.99	0.00	0.94
HT/FROST INSULATOR	All	BLD	BLD	49.95	52.45	1.5	1.5	2.0	11.62	12.26	0.00	0.72
IRON WORKER	All	All	All	42.00	43.00	2.0	2.0	2.0	10.54	23.81	0.00	0.85

LABORER	ALL	ALL		40.20	40.95	1.5	1.5	2.0	14.23	11.57	0.00	0.50
LATHER	ALL	ALL		44.35	48.78	2.0	2.0	2.0	11.85	17.47	0.00	0.63
MACHINIST	ALL	BLD		45.35	47.85	1.5	1.5	2.0	7.26	8.95	1.85	0.00
MARBLE FINISHERS	ALL	ALL		33.45	36.80	1.5	1.5	2.0	10.25	14.44	0.00	0.46
MARBLE MASON	ALL	BLD		44.13	48.54	1.5	1.5	2.0	10.25	14.97	0.00	0.59
MATERIAL TESTER I	ALL	ALL		30.20	30.20	1.5	1.5	2.0	14.23	11.57	0.00	0.50
MATERIALS TESTER II	ALL	ALL		35.20	35.20	1.5	1.5	2.0	14.23	11.57	0.00	0.50
MILLWRIGHT	ALL	ALL		45.35	49.89	2.0	2.0	2.0	11.99	19.68	0.00	0.63
OPERATING ENGINEER	ALL	BLD	1	49.10	53.10	2.0	2.0	2.0	18.05	13.60	1.90	1.30
OPERATING ENGINEER	ALL	BLD	2	47.80	53.10	2.0	2.0	2.0	18.05	13.60	1.90	1.30
OPERATING ENGINEER	ALL	BLD	3	45.25	53.10	2.0	2.0	2.0	18.05	13.60	1.90	1.30
OPERATING ENGINEER	ALL	BLD	4	43.50	53.10	2.0	2.0	2.0	18.05	13.60	1.90	1.30
OPERATING ENGINEER	ALL	BLD	5	52.85	53.10	2.0	2.0	2.0	18.05	13.60	1.90	1.30
OPERATING ENGINEER	ALL	BLD	6	50.10	53.10	2.0	2.0	2.0	18.05	13.60	1.90	1.30
OPERATING ENGINEER	ALL	BLD	7	52.10	53.10	2.0	2.0	2.0	18.05	13.60	1.90	1.30
OPERATING ENGINEER	ALL	FLT	1	54.75	54.75	1.5	1.5	2.0	17.65	12.65	1.90	1.35
OPERATING ENGINEER	ALL	FLT	2	53.25	54.75	1.5	1.5	2.0	17.65	12.65	1.90	1.35
OPERATING ENGINEER	ALL	FLT	3	47.40	54.75	1.5	1.5	2.0	17.65	12.65	1.90	1.35
OPERATING ENGINEER	ALL	FLT	4	39.40	34.50	1.5	1.5	2.0	17.65	12.65	1.90	1.35
OPERATING ENGINEER	ALL	FLT	5	56.25	54.75	1.5	1.5	2.0	17.65	12.65	1.90	1.35
OPERATING ENGINEER	ALL	FLT	6	37.00	54.75	1.5	1.5	2.0	17.65	12.65	1.90	1.35
OPERATING ENGINEER	ALL	HWY	1	47.30	51.30	1.5	1.5	2.0	18.05	13.60	1.90	1.30
OPERATING ENGINEER	ALL	HWY	2	46.75	51.30	1.5	1.5	2.0	18.05	13.60	1.90	1.30
OPERATING ENGINEER	ALL	HWY	3	44.70	51.30	1.5	1.5	2.0	18.05	13.60	1.90	1.30
OPERATING ENGINEER	ALL	HWY	4	43.30	51.30	1.5	1.5	2.0	18.05	13.60	1.90	1.30
OPERATING ENGINEER	ALL	HWY	5	42.10	51.30	1.5	1.5	2.0	18.05	13.60	1.90	1.30
OPERATING ENGINEER	ALL	HWY	6	50.30	51.30	1.5	1.5	2.0	18.05	13.60	1.90	1.30
OPERATING ENGINEER	ALL	HWY	7	48.30	51.30	1.5	1.5	2.0	18.05	13.60	1.90	1.30
PAINTER	ALL	ALL		44.55	49.30	1.5	1.5	1.5	11.50	11.10	0.00	1.27
PAINTER SIGNS	ALL	BLD		33.92	38.09	1.5	1.5	1.5	2.60	2.71	0.00	0.00
PILEDRIVER	ALL	ALL		45.35	49.89	2.0	2.0	2.0	11.99	19.63	0.00	0.63

PIPEFITTER	All	BLD		47.50	50.50	1.5	1.5	2.0	9.55	17.85	0.00	2.07
PLASTERER	All	BLD		42.25	44.79	1.5	1.5	2.0	13.65	9.50	5.00	0.65
PLUMBER	All	BLD		48.25	50.25	1.5	1.5	2.0	14.09	12.65	0.00	1.18
ROOFER	All	BLD		41.70	44.70	1.5	1.5	2.0	8.28	11.59	0.00	0.53
SHEETMETAL WORKER	All	BLD		45.77	47.77	1.5	1.5	2.0	10.65	14.10	0.00	0.82
SPRINKLER FITTER	All	BLD		47.20	49.20	1.5	1.5	2.0	12.25	11.55	0.00	0.55
STONE MASON	All	BLD		44.88	49.37	1.5	1.5	2.0	10.25	15.30	0.00	0.85
TERRAZZO FINISHER	All	BLD		39.54	39.54	1.5	1.5	2.0	10.55	11.79	0.00	0.67
TERRAZZO MASON	All	BLD		43.38	43.38	1.5	1.5	2.0	10.55	13.13	0.00	0.79
TILE MASON	All	BLD		43.84	47.84	1.5	1.5	2.0	10.55	11.40	0.00	0.99
TRAFFIC SAFETY WRKR	All	HWY		33.50	35.10	1.5	1.5	2.0	8.25	5.50	0.00	0.25
TRUCK DRIVER	All	All	1	37.91	38.46	1.5	1.5	2.0	8.10	7.97	0.00	0.15
TRUCK DRIVER	All	All	2	38.06	38.46	1.5	1.5	2.0	8.10	7.97	0.00	0.15
TRUCK DRIVER	All	All	3	38.26	38.46	1.5	1.5	2.0	8.10	7.97	0.00	0.15
TRUCK DRIVER	All	All	4	38.46	38.46	1.5	1.5	2.0	8.10	7.97	0.00	0.15
TUCKPOINTER	All	BLD		44.90	45.90	1.5	1.5	2.0	8.30	14.29	0.00	0.48

Explanations

WILL COUNTY

The following list is considered as those days for which holiday rates of wages for work performed apply: New Years Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day, Christmas Day and

RESOLUTION NO. 17-1

RESOLUTION RE REORGANIZATION OF OFFICERS OF THE
NORTHERN WILL COUNTY JOINT ACTION WATER AGENCY

WHEREAS, pursuant to Article III of the By-Laws of the Northern Will County Joint Action Water Agency (the "Agency"), the Board of Directors of the Agency have selected certain officers to perform Agency-related responsibilities; and

WHEREAS, due to the expiration of the terms of the Chairman, Vice Chairman, Treasurer and Secretary, there are certain Agency offices to be filled.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE NORTHERN WILL COUNTY JOINT ACTION WATER AGENCY, WILL COUNTY, ILLINOIS, AS FOLLOWS:

SECTION ONE: The foregoing recitals shall be and are hereby adopted as findings of fact as if said recitals were fully set forth within this Section One.

SECTION TWO: The explanation of the terms of the Agency are hereby acknowledged, and per Article III of the Agency By-Laws, the following shall serve as Agency officers until April 30, 2018.

- (a) Chairman: _____
- (b) Vice Chairman: _____
- (c) Treasurer: _____
- (d) Secretary: _____

SECTION THREE: Any policy or resolution of the Agency which is in conflict herewith shall be and is hereby repealed.

SECTION FOUR: This resolution shall be in full force and effect from and after its passage and approval by the Directors in the manner provided by law.

PASSED THIS 12TH DAY OF JUNE 2017.

AYES:
NAYS:
ABSENT:

APPROVED THIS ____ DAY OF _____, 2017.

Chairman

ATTEST:

Secretary

STATE OF ILLINOIS)
) SS.
COUNTY OF WILL)

FILED

16 NOV -9 PM 2:50

IN THE CIRCUIT COURT OF THE TWELFTH JUDICIAL CIRCUIT
WILL COUNTY, ILLINOIS

[Signature]
CIRCUIT COURT
WILL COUNTY, ILLINOIS
CLERK

NORTHERN WILL COUNTY WATER AGENCY, an)
Illinois municipal corporation; VILLAGE OF BOLINGBROOK,)
an Illinois municipal corporation, VILLAGE OF HOMER)
GLEN, an Illinois municipal corporation, VILLAGE OF)
LEMONT, an Illinois municipal corporation, VILLAGE OF)
ROMEOVILLE, an Illinois municipal corporation, and VILLAGE)
OF WOODRIDGE, an Illinois municipal corporation,)

Plaintiffs,)

-vs-

Case No. 14 ED 33

AMERICAN LAKE WATER COMPANY, et al.,)

Defendants.)

MEMORANDUM OPINION & ORDER REGARDING TRAVERSE HEARING

This cause coming to be heard for ruling on Defendants' Traverse hearing, the Court listening to the testimony of the witnesses, arguments of counsel and having reviewed the exhibits admitted by the Court as well as the post-hearing briefs and subsequent oral closing arguments, FINDS AS FOLLOWS:

I. Facts:

This case is a condemnation action brought by the Northern Will County Water agency ("Agency") and its five municipal members: The Villages of Bolingbrook, Homer Glen, Lemont, Romeoville and Woodridge ("Plaintiffs"). Plaintiffs seek to condemn a 30 mile water pipeline.

Defendants, American Lake Water Company (ALWC), Illinois American Water Company (IAWC), and American Water Works Company (AWWC) set forth three broad defenses that the parties agree are the issues of the hearing. These issues are: (1) whether the statutory requirements for taking the water system in more than one municipality have been met; (2) whether Plaintiffs made a good faith offer for the property they seek to condemn; and (3) whether Plaintiffs taking of the property is necessary.

The following witnesses testified at the hearing:

1. Michael Smythe, Vice President of Operations, Illinois American;
2. Kevin Hillen, Chicago Metro Operation Superintendent, Illinois American;
3. Rick Kerckhove, Senior Manager of Rates and Regulations, American Water Services;
4. Brian Reaves, Mayor of the Village of Lemont;
5. Joseph Thouvernell, President of TRS Consulting, Ltd.;
6. John Sknop, Partner at Krowe Horwath;
7. Karla Teasley, Former President, Illinois American

It is undisputed that on May 1, 2014 the Agency made an offer of \$37.6 million dollars to American Lake for the pipeline. It is further undisputed that no counter offer has ever been made. Further, Defendants refuse to enter into negotiations for the sale of the water system or otherwise counter-offer to Plaintiffs demand.

The offer to purchase the water system was addressed to Joe Conner. Mr. Conner is the attorney for the Defendants Illinois American Water Company ("IAWC"), American Lake Water Company ("ALWC") and American Water Works Company ("AWWC"). Mr. Conner received the offer, the agency resolution authorizing condemnation, and the system description. Plaintiffs' offer was also reviewed by Karla Olson Teasley, President of IAWC; Ken Jones, in-house counsel; Barry Suits, Vice

President of Operations of IAWC; Martin Kerckhove, in-house counsel at AWW or American Water Service Corporation (a non-party affiliate to the named Defendants); and Michael Smyth, Director of Operations of IAWC. At this time, Ms. Teasley was employed by IAWC and was also President and CEO of ALWC and IAWC. Likewise, Michael Smyth was employed by IAWC and also Vice President of Operations for both IAWC and ALWC. Further, Mr. Ken Jones was employed by IAWC and was in-house counsel for both IAWC and ALWC. In summary, of the six people who conferred on the offer of purchase from Plaintiffs and gave direction to Mr. Conner on how to respond to the offer letter, five were employed by IAWC.

The Court's file and the testimony of the witnesses disclosed that IAWC filed its original Traverse and Motion to Dismiss on October 27, 2014. In that Motion to Dismiss it denied any ownership of the water system, although five of its employees of IAWC were in possession of the system description. On April 19, 2016 Judge Rickmon granted Defendants' Motion to Amend its Traverse based upon the recent discovery as to which Defendants owned what assets.

Several witnesses testified that ALWC exists only on paper for regulatory convenience of AWWC. ALWC has no employees and IAWC's personnel perform all the functions of ALWC. Perhaps as a result of the byzantine structure, Mr. Smythe testified that he did not know which company he was representing at the hearing. Ms. Teasley testified that it was not until March 2016 that Defendants filed an Amendment to the Traverse stating that IAWC had an interest in the assets whereas previously Defendants denied such fact. Further, Michael Smythe testified at the hearing that ownership of the water system assets is determined internally by management.

Whether the Village of Plainfield is to be counted on a retail or wholesale basis is also a sub-issue of the hearing. The residents of Plainfield are not invoiced directly by ALWC, IAWC or AWW

and no other affiliate of the Defendants invoices Plainfield residents. The only entity invoiced by Defendants for transmission of water to Plainfield is the Village of Plainfield itself.

All five Plaintiff municipalities adopted ordinances expressing the necessity of acquiring the water system and authorizing the condemnation. Plaintiffs' witnesses testified that ALWC takes a fifteen (15%) percent markup to the cost of the water. ALWC also pays income taxes on any profit realized from the water system.

II. Discussion

The law is well settled in Illinois and the Illinois Supreme Court has consistently held that when valid Village Ordinances for the taking of property for a public purpose are presented to the trial court, such documents establish a *prima facie* case authorizing the acquisition of the property in question by eminent domain proceedings. City of DeKalb v. Anderson, 43 Ill.App. 3d 915, 357 N.E.2nd 837 (1976); City of Chicago v. Walker, 50 Ill.2d 69, 277 N.E.2d 129 (1971). The party attacking an ordinance bears the burden of demonstrating its invalidity. A challenging party must establish by clear and convincing evidence that the ordinance, as applied, is arbitrary and unreasonable and bears no substantial relation to the public health, safety, or welfare. Tomasek v. City of DesPlaines, 64 Ill.2d 172, 179-180, 354 N.E.2d at 903.

Plaintiffs introduced into evidence their intergovernmental agreement, the enabling ordinances of each municipality, an offer to purchase the system at the full appraised value and a stipulation demonstrating that 96.2% of the retail customers receiving water from the subject water system are located within five (5) municipal Plaintiffs. The system serves 28,266 retailer customers. 21,662 are located in Bolingbrook, 17 in Romeoville, 15 in Lemont, 6,316 in Homer Glen, and 265 in Woodridge. 1,120 retail customers are located in unincorporated areas. The testimony of Mr. Smythe and the

stipulation of the parties as recited shows that more than seventy (70%) percent of the retail customers of the system are located in the Plaintiff municipalities and therefore the mathematical requirements of Section 11-124-5(c) are met. Defendants offer statutory nuances, but such are left wanting in light of the broad enabling language and extensive case authority allowing the eminent domain proceeding to proceed. Additionally, Defendants argument defeats any possible means by Plaintiffs to acquire the water system by any means or at any time, which contravenes the Eminent Domain Act.

With regards to whether the proposed taking "is necessary", an ordinance containing legislative findings of necessity is *prima facie* evidence of necessity. See City of Oakbrook Terrace v. La Salle National Bank, 186 Ill.App.3d 343, 350, 134 Ill. Dec. 299, 542 N.E.2d 478 (1989). "The general rule is that where the legislature has delegated to a corporation the authority to exercise the power of eminent domain, the corporation has also the authority to decide on the necessity for exercising the right, and its decision will be conclusive in the absence of a clear abuse of the power granted. [Citations.]" City of Chicago v. Vaccarro, 408 Ill. 587, 97 N.E.2d 766 (1951). In the instant matter, the burden has shifted to Defendants to prove that Plaintiffs abused their discretion with respect to necessity based upon the admission of the ordinances approving the taking of the property for a public purpose. A clear abuse of discretion is only proven where (1) there is no necessity for the condemnation of the subject property; or (2) it appears that the quantity of the property sought to be taken is grossly in excess of the amount necessary for public use. People v. Young Women's Christian Association of Springfield, 86 Ill.2d 219, 233, 427 N.E.2d 70, 76 (1981). "Necessary" is defined as "expedient, reasonable convenient, or useful to the public." Dept. of Public Works @ Bldgs. V. Lewis, 411 Ill.242, 245, 103 N.E.2d 595, 598 (1952).

Defendants herein also allege that the condemnation of the water system would not result in lower rates to the end user. In fact, a substantial portion of Defendants' arguments debate how much Defendants charge consumers versus how much Plaintiffs may charge if allowed to condemn the

system. But Defendants' own witnesses demonstrated that if Plaintiff took over the water system, water rates could decrease. Mr. Rick Kerckhove testified on behalf of Defendants with regard to the water rates. He stated that if the Agency was to take over the system, there would be a cost savings equal to the income tax that ALWC is required to pay. He also testified that there is a fifteen (15%) percent markup added to the cost of the water representing the profit margin for ALWC. Kerckhove did, however, refute that Plaintiffs could waive the allowed profit markup, but his assertion remained unconfirmed and rather insincere as it is likely that Plaintiffs could waive the contractual provision to receive a 15% profit.

Finally, Defendants asserted that the May 1, 2014 offer was made in bad faith. In general, Defendants' arguments centered on their claims that the offer did not take into account various assets of the Defendant and no offer was made to IAWC. As to the argument regarding worth and extent of the assets sought to be acquired, Defendants did not introduce any other opinion of value. Moreover, testimony from Defendants' own employees repeatedly showed that they did not know which company owned what assets. Further, Mr. Skomp testified that substantially all of the assets were accounted for in the appraisal and the offer letter and related documents revealed a sufficient description of the assets to be purchased. There was also discussion as to the differences between a meter and a booster station but such distinction was without a difference given the jumbled use of the terms as found in Defendants' documents. Further, for two years in the instant litigation Defendants maintained that IAWC had no ownership in the subject property. But prior to the traverse hearing, they found and disclosed that IAWC is the exclusive owner of the assets at the booster stations. Surely Plaintiffs cannot be blamed for not knowing that certain assets belonged to IAWC.

In spite of the Defendants' early confusion as to which affiliate owned certain assets, officers and directors of IAWC conferred and acted on the May 1, 2014 offer. (See also pp2-3, *supra*). Discussion

ensued at the hearing as to whether the corporate veil should be pierced due to confusion as to what entity owned which assets and what entity employed which employees. But such discussion, and the discussed application of Section 2-616 of the Illinois Code of Civil Procedure, is unnecessary based upon the acts of the officers and directors of IAWC who conferred and acted on the May 1, 2014 offer and the clearly affirmed fact that the water system would not be for sale at any price.

III. FINDINGS

The parties agreed that the bar is low in denying a traverse hearing. As expected though, the parties disagree as to whether Plaintiffs have overcome that bar. The burden is on Defendants to prove an abuse of discretion. Defendants have failed to do so as to the issues shown hereinabove and other sub-issues and arguments presented by Defendants.

This Court finds that Plaintiffs established a *prima facie* case authorizing the acquisition of the property in question by eminent domain proceedings and that Plaintiffs' offer was not arbitrary, capricious or unreasonable. As to necessity, there is no abuse of legislative discretion. As to the statutory authority, Plaintiffs have well over the statutory minimum of customers in their municipal boundaries regardless of which sub-section of the Act is used. Plaintiffs' offer was rebuffed without a counter-offer and therefore further negotiations would be futile as Defendants stated in writings that their assets were not for sale.

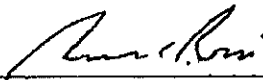
As to any question of good faith, Plaintiffs obtained a valuation report and offered the full amount of the valuation figure received. Plaintiffs were honest in fact in their dealings with Defendants. Had the offer letter also included IAWC, the result would have been the same: The assets were not for sale and there was not any need for a counter-offer. The fact that the only valuation offered at the hearing was that from Plaintiffs' witness, further wounds Defendants' argument that the offer was in bad faith. No

bill of sale was produced and the continuing property record is absent from the proceedings, which could have aided Defendants as to who owned the assets and how much the assets are worth.

IV. CONCLUSION

Defendant's Motion to Dismiss is denied. This case is returned to the motion call in Courtroom 201A for further proceedings. The parties shall agree within 14 days to a status hearing date to be held within 45 days. Exhibits may be picked up in Courtroom 129A within 21 days if desired. Thereafter the exhibits will be discarded.

Dated: 11-9-2016



Raymond E. Rossi
Circuit Court Judge

PUBLISHED IN PAMPHLET FORM FOR THE FOLLOWING:

RESOLUTION NO. 17-001

TITLED:

2017 PREVAILING WAGE

NORTHERN WILL COUNTY WATER AGENCY

RESOLUTION NO. 17-001

2017 PREVAILING WAGE

WHEREAS, the State of Illinois has enacted "An Act regulating wages of laborers, mechanics and other workers employed in any public works by the State, county, city or any public body or any political subdivision or by anyone under contract for public works", approved June 26, 1941, as amended (820 ILCS 130/1 *et seq.*), hereinafter referred to as the "Act"); and

WHEREAS, the aforesaid Act requires that the Board of the Northern Will County Water Agency investigate and ascertain the prevailing rate of wages as defined in said Act for laborers, mechanics and other workers in the locality of said Agency employed in performing construction of public works for said Agency;

NOW, THEREFORE, BE IT RESOLVED BY THE CHAIRMAN AND BOARD OF THE NORTHERN WILL COUNTY WATER AGENCY, WILL COUNTY, ILLINOIS, AS FOLLOWS:

SECTION ONE: To the extent and as required by "An Act regulating wages of laborers, mechanics and other workers employed in any public works by the State, county, city or any public body or any political subdivision or by anyone under contract for public works", approved June 26, 1941, as amended, the general prevailing rate of wages in this locality for laborers, mechanics, and other workers engaged in the construction of public works coming under the jurisdiction of the Agency is hereby ascertained to be the same as the prevailing rate of wages for construction work in Will County areas as determined by the Department of Labor of the State of Illinois as of June 5, 2017, a copy of those determinations being attached hereto and incorporated herein by reference. As required by said Act, any and all revisions of the prevailing rate of wages by the Department of Labor of the State of Illinois shall supersede the Department's prior determinations and apply to any and all public works construction undertaken by the Agency. The definition of any terms appearing in this Resolution which are also used in the aforesaid Act shall be the same as in said Act.

SECTION TWO: Nothing herein contained shall be construed to apply said general prevailing rate of wages as herein ascertained to any work or employment except public works construction of this Agency to the extent required by the aforesaid Act.

SECTION THREE: The Agency shall publicly post or keep available for inspection by any interested party in the main office of the Agency this determination or any revisions of such prevailing rate of wage. A copy of this determination or of the current revised determination of prevailing rate of wages then in effect shall be attached to all contract specifications.

SECTION FOUR: The Agency shall mail a copy of this determination to any employer, and to any association of employers and to any person or association of employees who have filed their names and addresses, requesting copies of any determination stating the particular rates and the particular class of workers whose wages will be affected by such rates.

SECTION FIVE: The Agency shall promptly file a certified copy of this Resolution with the Department of Labor of the State of Illinois.

SECTION SIX: The Agency shall cause to be published in a newspaper of general circulation within the area a copy of this Resolution, and such publication shall constitute notice that the determination is effective and that this is the determination of this public body.

SECTION SEVEN: This Resolution shall be in full force and effect from and after its passage and approval in the manner provided by law.

PASSED THIS 12th day of June, 2017.

AYES:

NAYS:

ABSENT:

APPROVED THIS 12th day of June, 2017.

CHAIRMAN

ATTEST:

SECRETARY

Attachment

JM\647863\5/19/17

STATE OF ILLINOIS)
) SS
COUNTY OF WILL)

I, James Boan, Authorized Agent, certify that I am the Authorized Agent for the Northern Will County Water Agency.

I further certify that on June 12, 2017, the Corporate Authorities of such Agency passed and approved Resolution No. 17-001 entitled:

2017 PREVAILING WAGE

which provided by its terms that it should be published in pamphlet form.

DATED at Homer Glen, Illinois, this 12th day of June, 2017.

James Boan
Agency Attorney