

RESOLUTION NO. 20 - R - 117

**A RESOLUTION AUTHORIZING THE EXECUTION OF AN AGREEMENT
FOR LOBBYING SERVICES BETWEEN
THE VILLAGE OF OSWEGO AND ELEVATE GOVERNMENT AFFAIRS**

WHEREAS, the Village of Oswego (“Village”) has a population of more than 25,000 and is therefore a “Home Rule Unit” under the 1970 Illinois Constitution; and

WHEREAS, the Illinois Constitution of 1970 provides that a Home Rule Unit may exercise any power and perform any function pertaining to its government and affairs, including but not limited to the power to regulate for the protection of the public health, safety, morals and welfare; to license, to tax; and to incur debt; and

WHEREAS, it is in the best interest of the Village of Oswego to approve the agreement substantially in the form attached hereto marked as “Exhibit A”.

NOW, THEREFORE, BE IT RESOLVED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF OSWEGO, KENDALL AND WILL COUNTIES, ILLINOIS, as follows:

SECTION 1. INCORPORATION OF RECITALS

That the recitals set forth above are incorporated here by reference.

SECTION 2. APPROVAL OF AGREEMENT

The Village President and Village Board of Trustees are hereby authorized and directed to execute on behalf of the Village of Oswego an agreement substantially in the form attached as “Exhibit A.”

SECTION 3. REPEALER

All Resolutions or parts of Resolutions in conflict with any of the provisions of this Resolution shall be, and the same hereby repealed to the extent of the conflict.

SECTION 4. SEVERABILITY

This Resolution and every provision thereof shall be considered severable. If any section, paragraph, clause or provision of this Resolution is declared by a court of law to be invalid or unconstitutional, the invalidity or unconstitutionality thereof shall not affect the validity of any other provisions of this Resolution.


SECTION 5. EFFECTIVE DATE

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

PASSED by the Board of Trustees of the Village of Oswego, Kendall and Will Counties, Illinois this 15th day of December 2020.

JAMES MARTER	<u>AYE</u>	LUIS PEREZ	<u>AYE</u>
TERRY OLSON	<u>AYE</u>	JUDY SOLLINGER	<u>AYE</u>
PAM PARR	<u>AYE</u>	BRIAN THOMAS	<u>AYE</u>

APPROVED by me, Troy Parlier, as President of the Village of Oswego, Kendall and Will Counties, Illinois this 15th day of December 2020.



TROY PARLIER, VILLAGE PRESIDENT



Tina Touchette, Village Clerk

STATE OF ILLINOIS)
)
COUNTY OF KENDALL) SS

CLERK'S CERTIFICATE
(RESOLUTION)

I, Tina Touchette, the duly qualified and acting Village Clerk of the Village of Oswego, Kendall and Will Counties, Illinois, do hereby certify that I am the keeper of its books and records and that the attached hereto is a true and correct copy of a Resolution entitled:

**A RESOLUTION AUTHORIZING THE EXECUTION OF AN AGREEMENT
FOR LOBBYING SERVICES BETWEEN
THE VILLAGE OF OSWEGO AND ELEVATE GOVERNMENT AFFAIRS**

which Resolution was duly adopted by said Board of Trustees at a meeting held on the 15th day of December 2020, and thereafter approved by the Village President on the 15th day of December 2020.

I do further certify, in my official capacity, that a quorum of said Board of Trustees was present in person or by electronic means at said meeting and that the Board complied with all requirements of the Illinois Open Meetings Act with electronic participation as authorized by the Open Meetings Act during a declared disaster.

IN WITNESS WHEREOF, I have hereunto set my hand this 16th day of December 2020.

Tina Touchette

Tina Touchette, Village Clerk
Village of Oswego





PROFESSIONAL SERVICES AGREEMENT

This Agreement is made this 15th day of December 2020, between and shall be binding upon the Village of Oswego, Kendall, and Will Counties, an Illinois Municipal Corporation hereinafter referred to as the "Village" and Elevate Government Affairs, Washington, D.C, hereinafter referred to as the "Firm" and its successors.

The Firm has been engaged to perform certain professional services, and it is understood that the parties have not entered into any joint venture or partnership with the other. The Firm shall not be considered to be the agent of the Village. The Firm shall render government affairs services in accordance with generally accepted and currently recognized practices and principles. The Firm shall strive to conduct services under this Agreement in a manner consistent with that level of care and skill ordinarily exercised by members of the profession currently practicing in the same locality under similar conditions as of the date of this Agreement. Each party shall designate one person to act with authority on its behalf. The person designated shall review and respond promptly to communications received from the other party.

1. SCOPE OF SERVICES

Witnessed, that in consideration of the mutual promises of the parties, the Firm agrees to perform the services, and the Village agrees to pay for the following services:

An effective partnership requires that the Firm fully understand the Village and the short- and long-term goals related to the two projects. Understanding the engagement at the Federal level and among regional partners necessary for the success of the Village's goals will be critical to strategy development. It will also be critical to understand the priorities of these regional partners to understand how the Firm collectively can best leverage them in support of the scope of work.

- Initiate and refine a collaborative engagement strategy for outreach and messaging to achieve the Village's policy goals specific to the expansion of Metra and drinking water supply.
- Communicate the importance of both the commuter rail and water infrastructure projects with the Illinois delegation and those who serve in key positions to secure support of the project within their legislative agenda.
- Educate agency stakeholders and position Village representatives as known entities to agency decisionmakers for the benefit of the projects.

A. Extension of Metra Service to Kendall Village

- Communicate with the Congressional stakeholders and federal agencies with direct jurisdiction over transit, commuter rail and railroads including the Senate Banking,

Housing and Urban Affairs, Senate Commerce, Science and Transportation and House Transportation and Infrastructure Committees.

- Engage with the House and Senate Appropriations Committees in pursuit of funding beneficial to the project.
- Engage Congressional committee staff on both sides of the aisle on the committees of jurisdiction to educate them on the project and its regional and economic benefits.
- Work closely with the Illinois Congressional delegation and engage their offices on the project.
- Engage the Department of Transportation's (DOT) Federal Transit Administration (FTA), Federal Rail Administration (FRA), and the Office of the Secretary of Transportation (OST).
 - Firm will engage both policy and political staff at the DOT to discuss the project and potential avenues for success, including potential Federal loan programs through the Build America Bureau.
- Develop a joint strategy with Metra and ensure close coordination with BNSF.

B. Securing Additional Drinking Water Supply

- Engage the Senate Environment and Public Works Committee (EPW) on the project.
- Engage with the House Transportation and Infrastructure Committee and Energy and Commerce Committee on the project.
- Engage with the House and Senate Committees on Appropriations in the pursuit of programmatic funding to benefit the project.
- Engage the U.S. Army Corps of Engineers (Corps), as well as the Environmental Protection Agency (EPA) to investigate opportunities to secure funding for the project including potential Federal loan programs through the Water Infrastructure Finance and Innovation Act loan program.

2. SUPERVISION OF WORK OF OTHERS

The Firm shall not at any time supervise, direct, or have control over any other firm's or contractor's work, nor shall the Firm have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected or used by any other firm or contractor, nor for safety precautions and programs in connection with the other firm's or contractor's work, nor for any failure of any other firm or contractor to comply with laws and regulations applicable to Firm's work. The Firm neither guarantees the performance of any other firm or contractor nor assumes responsibility for any other firm's or contractor's failure to furnish and perform its work. The Firm shall have no authority to stop any other firm's or contractor's work but will advise Village of work that is not in conformance with the approved plans and specifications.

3. DELIVERY AND REUSE OF DOCUMENTS

All drawings, specifications, reports, and any other project documents prepared by the Firm in connection with any or all of the services furnished thereunder shall be delivered to the Village for the express use of the Village. Documents are not intended or represented to be suitable for

reuse by the Village or others on any other project. Any such use without the prior written authorization of the Firm will be at the Village's sole risk. The Firm does have the right to retain original documents but shall cause to be delivered to the Village such quality of documents so as to enable reproducibility of the documents delivered. In particular, the Village may request, at no additional cost, the delivery of additional sets of drawings or documents if the Firm fails to deliver a fully reproducible document.

4. SUBLETTING OF CONTRACT

The Firm may sublet portions of the services. Sub-contractors shall conform, in all respects, to the applicable provisions specified for the Firm and shall further be subject to approval by the Village prior to the performance of any services by the sub-contractor. Rejection of a particular sub-contractor shall not be cause to alter the original Agreement or to request additional compensation. The Firm shall identify all proposed sub-contractors who will furnish services. The services to be done by the sub-contractor shall be outlined in detail to the Village prior to the start of services and identified in the progress reports submitted by the Firm. The qualifications of the proposed sub-contractor shall be submitted to the Village, in the same format and basic requirements as required of the Firm. At all times the Firm shall maintain no less than fifty-one (51) percent of the dollar value of the Agreement by direct employees of the Firm.

5. AGREEMENT AMOUNT AND PRICES

For the Firm's services described in the agreement documents, the Village agrees to pay and the Firm agrees to accept as full payment for the services which are the subject matter of this Agreement in accordance with the General Provisions and the "Local Government Prompt Payment Act".

Unless specifically agreed to by the Village, the following expenses will not be allowed: charges for items that are considered a normal cost of doing business or are considered a normal feature in an office, for example, charges for sending or receiving facsimiles or emails; CADD or computer charges; telephone, pager or other telecommunication charges; copies or reproductions for the internal use of the Firm (copies or reproductions for external use, i.e. submittals to the Village or other governing agencies, are allowable as reimbursable expenses.)

6. INVOICING AND PAYMENT

The Firm shall submit invoices electronically. Invoices will cover the services performed from the first of each month to the end of that specific month. Only one invoice shall be submitted per month. Statements shall include a detailed breakdown of all charges incurred. The invoice shall detail personnel name, title, pay rate, hours charged, and task performed. If personnel worked on more than one task during the invoice period, each task shall be identified with the corresponding hours charged. Invoices shall be based on actual hours of performance.

Invoices shall be accompanied by monthly progress reports. Invoices submitted without a progress report will be considered incomplete and will not be processed for payment. The progress report shall include rates of completion for all tasks scoped, rates of completion for all

deliverable products, updated delivery dates, services performed in the current period, services anticipated to be performed in the next period and information or deliverables that the Firm is waiting for. The following five items shall be clearly addressed in each monthly report:

1. Services performed in the period covered by the invoice.
2. Services to be performed in the next period.
3. Deliverables and due dates, particularly noting items due in the next period (updated schedule).
4. Items that the Firm is waiting for from the Village or other agencies.
5. A summary or statement discussing the financial status of the individual project – is the project under, on, or over budget. If over budget, identify the reason and provide an estimate number of hours and cost to complete the project.

The Village agrees to make monthly payments and to pay interest on unpaid balances under the provisions of the Local Government Prompt Payment Act. Sub-contractor costs are not considered direct costs for purposes of calculating the withheld amount. Should charges related to travel be required, the Firm shall notify the Village for approval and no further action shall be done by the Firm until authorization to proceed in writing has been received from the Village.

7. CHANGES

The Village reserves the right by written amendment to make changes in requirements, amount of services, or time schedule. The Firm and the Village shall negotiate appropriate adjustments acceptable to both parties to accommodate any changes.

8. SUSPENSION OF SERVICES

The Village may, at any time, by written order to the Firm require the Firm to stop all, or any part, of the services required by this Agreement. Upon receipt of such an order the Firm shall immediately comply with its terms and take all steps to minimize the incurrence of costs allocable to the services covered by the order. Firm shall be compensated for all services performed and reimbursable expenses incurred prior to the receipt of notice of suspension. Upon resumption of services, the Village shall compensate the Firm for reasonable expenses incurred as a result of the suspension and resumption of its services, and the Firm's schedule and fees for the remainder of the Project shall be equitably adjusted.

9. TERMINATION OF CONTRACT

The Village reserves the right to terminate the whole or any part of any agreement awarded, upon ten (10) calendar days written notice to the Firm. The Village further reserves the right to cancel the whole or any part of the Agreement if the Firm fails to perform any of the provisions in the Agreement or fails to make delivery within the time stated. The Firm will not be liable to perform if situations arise by reason of strikes, acts of God or the public enemy, acts of the Village, fires or floods, epidemics, or pandemics.

Upon such termination, the Firm shall cause to be delivered to the Village all surveys, reports, permits, agreements, calculations, drawings, specifications, partially and completed estimates and data, as well as products of computer aided drafting, design and writing that have been paid for by the Village. Costs of termination incurred by the Firm before the termination date will be reimbursed by the Village only, if prior to the effective termination date, the Village receives from the Firm a list of actions necessary to accomplish termination and the Village agrees in writing that those actions be taken. Upon receipt of the termination notice the Firm shall stop all services until said Agreement is reached.

10. INSURANCE

Firm shall procure and maintain for the duration of the Agreement insurance against claims for injuries to persons, damages to property, and/or other applicable damages that may arise in connection with the performance of services under this Agreement as follows:

- A. Minimum Scope of Insurance – The insurance coverage to be procured and maintained by Firm shall be at least as broad as the following:
- i. Commercial General Liability Insurance. Commercial general liability insurance with minimum coverage amounts of \$2,000,000 general aggregate; \$2,000,000 products-completed operations aggregate; and \$1,000,000 each occurrence for bodily injuries, death, and property damage, and personal injury resulting from any one occurrence, including the following endorsements, coverages, and/or conditions:
 1. Shall name the Village as an additional insured in accordance with the obligations and conditions set forth below.
 2. Blanket contractual liability coverage, to the extent permitted under Illinois law at least as broad as CG 00 01.
 3. Premises-Operations and Independent Firms.
 4. Broad form property damage coverage.
 5. Personal injury coverage.
 6. Must be endorsed as Primary and Non-Contributory as to any other insurance of the Additional Insureds.
 7. If the Additional Insureds have other insurance which is applicable to the loss, such other insurance shall be on an excess or contingent basis to any Sub-Firm's policy.
 - ii. Workers' Compensation and Employers Liability Insurance. Statutory Workers' Compensation coverage complying with the law of the State of Illinois and Employers' Liability Insurance with minimum limits at \$500,000 each accident, including occupational disease coverage with a limit of \$500,000 per employee, subject to policy minimum limit of \$500,000 per annum.
 - iii. Umbrella / Excess Liability Insurance Umbrella / Excess Liability Insurance. Umbrella or excess liability insurance is written over the underlying employer's liability, commercial general liability, and automobile liability insurance described above with minimum coverage amounts of \$2,000,000 per occurrence and \$2,000,000 general aggregate, with coverage at least as broad as the underlying policies.
 - iv. Professional Liability Insurance. Firm shall procure and maintain professional liability insurance coverage: Per Claim: \$1,000,000.00. Such professional liability coverage

shall be maintained for at least two years after completion of services under the Agreement. Evidence of such insurance shall be provided upon request from the Village during this two-year period.

- B. Firm's Obligations - The Firm shall have the following obligations with regard to required insurance under the Agreement:
- i. The insurance policies required under this Agreement shall be endorsed to contain the following provisions: the Village and its officers, officials, employees are to be named additional insureds under the Firm's Commercial General liability and Automobile liability policies for liability arising out of ongoing and completed operations performed by or on behalf of the Firm. General liability coverage shall be provided in the form of an endorsement to Firm's insurance at least as broad as ISO Form CG 20 10 11 85, or if not available, through both ISO Form CG 20 10, or CG 20 26, or CG 20 33; and CG 2037; 04 13 Edition date. All additional insured coverage shall be for both ongoing and completed operations.
 - ii. The Firm shall provide evidence of the required insurance coverages under this Agreement by providing a copy of applicable endorsement(s) and certificates of insurance evidencing such coverages. All certificates of insurance required to be obtained by the Firm shall provide that coverages under the policies named shall not be canceled without at least thirty (30) days prior written notice given to the Village, with a ten (10) day exception for non-payment of premium. All certificates evidencing coverage extended beyond the date of final payment shall be provided at the time of the final Pay Request.
 - iii. The Firm shall provide immediate notice to the Village upon the cancelation of any insurance policy or policies required hereunder. The Firm's Commercial General Liability and Automobile Liability policies shall be Primary and Non-Contributory Insurance as to all additional insureds with respect to all claims arising out of operations by or on their behalf. If the Village has other applicable insurance coverages, those coverages shall be regarded as excess over the additional insured coverage. Firm shall, with respect to all insurance required under this Agreement, endorse or require each policy to waive any and all rights of subrogation for losses and or damages arising from the services provided by the Firm against the Village or other Additional Insured except where not permissible by law.
 - iv. The Firm shall require that every Sub-Contractor of any tier working on the Project associated with this Agreement to obtain insurance of the same types and amounts as that required of Firm, naming the same as additional insureds subject to the same restrictions and obligations as set forth in the Firm's insurance required under the Agreement, including waivers of subrogation in favor of the Village.
 - v. Under no circumstances shall the Village be deemed to have waived any of the insurance requirements of this Agreement by any act or omission, including, but not limited to:
 1. Allowing services by the Firm or any Sub-Contractor of any tier to start before receipt of the required insurance policy, endorsement, and/or certificates of insurance; or
 2. Failure to examine, or to demand the correction of any deficiency, of any insurance policy, endorsement, and/or certificate of insurance received.

- vi. The Firm agrees that the obligation to provide insurance is solely the responsibility of the Firm and the Sub-Contractor of any tier and cannot be waived by any act or omission of the Village.
- vii. The purchase of insurance by the Firm under this Agreement shall not be deemed to limit the liability of the Firm in any way, for damages suffered by the Village in excess of policy limits or not covered by the policies purchased by the Firm.
- viii. The Firm shall notify the Village, in writing, of any possible or potential claim for personal injury or property damage arising out of the services of this Agreement promptly whenever the occurrence giving rise to such a potential claim becomes known to the Firm.
- ix. All insurance shall be placed with an insurer or insurers authorized to conduct business in the State of Illinois with a current A.M. Best's rating of no less than A, unless otherwise acceptable to the Village.

11. INDEMNIFICATION

With respect to liability arising from other than professional services, to the fullest extent permitted by Illinois law, Firm shall indemnify, defend, and hold the Village, its officers, and employees harmless from and against all damages, liabilities, and costs including but not limited to reasonable attorneys' fees, arising out of bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Firm, anyone directly or indirectly employed by Firm, or anyone for whose acts Firm is legally liable.

With respect to professional services, the Firm agrees to indemnify and hold the Village, its officers, and employees harmless against all liability, damages, and costs, including reasonable attorney fees, arising from injury or death to persons or damage to tangible property (other than the Work itself) to the extent caused by the negligent act, omission or willful misconduct of the Firm in its professional performance under this Agreement.

Such obligations shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity that would otherwise exist as to a party or person described in this Section.

12. FORCE MAJEURE

Whenever a period of time is provided for in this Agreement for the Firm or the Village to do or perform any act or obligation, neither party shall be liable for any delays or inability to perform if such delay is due to a cause beyond its control and without its fault or negligence including, without limitation: a) Acts of nature; b) Acts or failure to act on the part of any governmental authority other than the Village or Firm, including, but not limited to, enactment of laws, rules, regulations, codes or ordinances subsequent to the date of this Agreement; c) Acts or war; d) Acts of civil or military authority; e) Embargoes; f) Work stoppages, strikes, lockouts, or labor disputes; g) Public disorders, civil violence, or disobedience; h) Riots, blockades, sabotage, insurrection, or rebellion; i) Epidemics or pandemics; j) Terrorist acts; k) Fires or explosions; l) Nuclear accidents; m) Earthquakes, floods, hurricanes, tornadoes, or other similar calamities; n)

Major environmental disturbances; or o) Vandalism. If a delay is caused by any of the force majeure circumstances set forth above, the Firm's compensation and schedule shall be equitably adjusted. Further, either party claiming a delay due to an event of force majeure shall give the other party written notice of such event within three (3) business days of its occurrence, or it shall be deemed to be waived.

13. MUNICIPAL ADVISOR

The Firm is not a Municipal Advisor registered with the Security and Exchange Commission (SEC) as defined in the Dodd-Frank Wall Street Reform and Consumer Protection Act. When the Village is a municipal entity as defined by said Act, and the Village requires project financing information for the services performed under this Agreement, the Village will provide the Firm with a letter detailing who their independent registered municipal advisor is and that the Village will rely on the advice of such advisor. A sample letter can be provided to the Village upon request.

14. COMPLIANCE WITH LAWS

The Firm shall, at all times, observe and comply with all applicable laws, ordinances and regulations of the Federal, State, and local governments, which may in any manner affect the preparation of proposals or the performance of the Agreement.

15. TAXES

The Village is exempt, by law, from paying the following taxes: Federal Excise Tax, Illinois Retailer's Occupation Tax, Use Tax and Municipal Retailers' Occupation Tax on materials and services purchased by the Village. A copy of the Village tax-exempt letter will be provided to the successful Firm when requested.

16. VENUE

The parties hereto agree that for purposes of any lawsuit(s) between them concerning the Agreement, its enforcement, or the subject matter thereof, venue shall be in Kendall County, Illinois, and the laws of the State of Illinois shall govern the cause of action.

17. CONFLICT OF INTEREST

The Firm agrees to not perform professional services during the term of the Agreement for any project or services that may be subject to the Village's review/inspection, to occur or occurring within the corporate limits of the Village, or in unincorporated area contiguous to the corporate limits of the Village and in the Village's planning area, without notification to the Village prior to rendering services. The Firm agrees to provide the Village with written notification whenever the services provided under this Agreement shall require the Firm to review or inspect services performed by any other firm or corporation for whom the Firm is or has within the previous twelve (12) months provided professional services, or with which any of the Firm's owners, partners or principals have a financial interest. The Firm agrees to provide written notification to

the Village whenever the Firm, or any other firm or corporation with which any of the Firm's owners, partners or principals have a financial interest, performs services that may be subject to the Village's review/inspection, or in unincorporated area contiguous to the corporate limits of the Village and in the Village's planning area. The Village may at its discretion disqualify the Firm from participation as a representative of the Village in such projects or in projects potentially impacted.

18. NOTICES

Any notice shall be in writing and shall be deemed sufficient when personally served or sent United States mail as follows:

To the Village:
Village Administrator
Village of Oswego
100 Parkers Mill
Oswego, Illinois 60560

To the Firm:
Elevate Government Affairs
Sam Whitehorn, Principal
440 1st St. NW Suite 360
Washington, D.C. 20001

19. AGREEMENT TERM AND RENEWAL

The Agreement shall be for a one-year period.

20. CERTIFICATIONS

Firm agrees to the Village, hereby certifies that said Firm:

- A. Certifies that it is not barred from bidding or contracting with the Village as a result of a violation of either Paragraph 33E-3 (Bid rigging) or 33E-4 (Bid rotating) of Act 5, Chapter 720 of the Illinois Compiled Statutes regarding criminal interference with public contracting, and
- B. Swears under oath that it is not delinquent in the payment of any tax administered by the Illinois Department of Revenue as required by Chapter 65, Act 5, paragraph 11-42.1 of the Illinois Compiled Statutes, and
- C. States that it has a written sexual harassment policy as required by the Illinois Human Rights Act (775 ILCS 5/2-105(A) (4) a copy of which shall be provided to the Village upon request, and
- D. Agrees to comply with the requirements of the Illinois Human Rights Act regarding Equal Employment Opportunities as required by Section 2-105 of the Illinois Human Rights Act (775 ILCS 5/2-105) and agrees to comply with the Equal Employment Opportunity Clause in Appendix A, Section 750, Part 750, Chapter X, Subtitle B of Title 44 of the Illinois Administrative Code incorporated herein by reference, and
- E. Agrees to comply with the civil rights standards set forth in Title VII of the Civil Rights Act as mandated in Executive Order No. 11246, U.S.C.A. Section 2000e n.114 (September 24, 1965), and

F. Agrees to provide a drug-free workplace pursuant to the Drug-Free Workplace Act (30 ILCS 580/1 et seq.) (25 or more employees under a contract of more than \$5,000 or for individuals only when greater than \$5,000).

IN WITNESS WHEREOF the parties hereto have executed or caused to be executed by their duly authorized agents, this contract in DUPLICATE, each of which shall be deemed original, on the day and year first written.

**Village of Oswego, Illinois,
a municipal corporation**

By:



Village President


Attest:



Village Clerk

ELEVATE GOVERNMENT AFFAIRS:

By:



Signature

Attest:



Witness

Samuel Whitehorn, Partner

Print Name and Title