

**INTERGOVERNMENTAL AGREEMENT
ESTABLISHING THE
NORTH SHORE ELECTRICITY AGGREGATION CONSORTIUM
BETWEEN AND AMONG THE CITIES OF HIGHLAND PARK,
LAKE FOREST, AND PARK RIDGE, AND THE VILLAGES OF
DEERFIELD, GLENCOE, LAKE BLUFF, NORTHBROOK, AND SKOKIE**

THIS INTERGOVERNMENTAL AGREEMENT (“*Agreement*”) is made and entered into as of the ___ day of _____, 2011 (“*Effective Date*”), between, and among the **VILLAGE OF DEERFIELD**, an Illinois home rule municipal corporation (“*Deerfield*”), the **VILLAGE OF GLENCOE**, an Illinois municipal corporation (“*Glencoe*”), the **CITY OF HIGHLAND PARK**, an Illinois home rule municipal corporation (“*Highland Park*”), the **VILLAGE OF LAKE BLUFF**, an Illinois home rule municipal corporation (“*Lake Bluff*”), **THE CITY OF LAKE FOREST**, an Illinois home rule municipal corporation (“*Lake Forest*”), the **VILLAGE OF NORTHBROOK**, an Illinois home rule municipal corporation (“*Northbrook*”) and the **VILLAGE OF PARK RIDGE**, an Illinois home rule municipal corporation (“*Park Ridge*”), and the **VILLAGE OF SKOKIE**, an Illinois home rule municipal corporation (“*Skokie*”) (collectively, the “*Parties*”).

WITNESSETH:

WHEREAS, Section 1-92 of the Illinois Power Agency Act, 20 ILCS 3855/1-92 (“*Act*”), authorizes the corporate authorities of a municipality to establish a program to aggregate electrical loads of residential and small commercial retail customers and to solicit bids and enter into service agreements to facilitate the sale and purchase of electricity and related services and equipment for those electrical loads (“*Electricity Aggregation Program*”); and

WHEREAS, pursuant to the Act, municipalities may, if authorized by referendum, operate an Electricity Aggregation Program as an “opt-out” program that applies to all residential and small commercial retail electrical customers who do not affirmatively choose not to participate; and

WHEREAS, the Act authorizes municipalities to jointly operate an Electricity Aggregation Program and does not prohibit municipalities from entering into an intergovernmental agreement to aggregate electric loads for those programs; and

WHEREAS, the corporate authorities of each of the Parties have approved the placement of a referendum on the ballot for the March 20, 2012 primary election regarding the establishment of an “opt-out” Electricity Aggregation Program pursuant to the Act (“*Opt-Out Referendum*”); and

WHEREAS, although each Party will operate a separate Electricity Aggregation Program for its residents, the Parties have individually and collectively determined that combining the bidding and contracting process to obtain the supply of electric power for their Electricity Aggregation Programs could provide potential savings through a joint project bid (“*Joint Power Supply Bid*”); and

WHEREAS, the Parties desire to establish a consortium of local governments to facilitate joint action and intergovernmental cooperation for the Joint Power Supply Bid; and

WHEREAS, to achieve these and other related objectives, the Parties desire to continue to utilize the powers and authority granted to them, individually and collectively, pursuant to Article VII, Section 10 of the Illinois Constitution of 1970, the Intergovernmental Cooperation Act, 5 ILCS 220/1 *et seq.*, and Section 1-92 of the Act, 20 ILCS 3855/1-92; and

WHEREAS, the Parties have determined that they need to join together to create and establish the North Shore Electricity Aggregation Consortium ("**Consortium**") by intergovernmental agreement to provide for a comprehensive and unified effort to facilitate joint action and intergovernmental cooperation for the Joint Power Supply Bid; and

WHEREAS, after full consideration of all planning, fiscal, and other intergovernmental issues affecting this matter, each of the Parties has determined that it is in the best interests of its citizens and of the general public welfare that this Agreement be executed and implemented by the Parties; and

WHEREAS, the Parties have each approved this Agreement by an ordinance or resolution duly adopted by the Party's corporate authorities; and

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements herein made and other good and valuable consideration, the receipt and sufficiency of which are hereby mutually acknowledged, and pursuant to all applicable statutes and local ordinances, specifically including, but without limitation, Article VII, Section 10 of the Illinois Constitution of 1970, the Intergovernmental Cooperation Act, 5 ILCS 220/1 *et seq.*, and Section 1-92 of the Act, 20 ILCS 3855/1-92, the Parties do hereby agree as follows:

SECTION 1. RECITALS.

The foregoing recitals are, by this reference, incorporated into and made a part of this Agreement.

SECTION 2. PURPOSE.

This Agreement is made for the purpose of establishing the Consortium and endowing it with all of the authority, powers, and resources necessary and convenient to allow the Parties to jointly and efficiently address common bidding and contracting for a Joint Power Supply Bid. This Agreement is further intended to allow the Parties to jointly seek available local, state, and federal funds and other resources, if available, to assist in addressing the Joint Power Supply Bid identified by the Parties as necessary, and being appropriate for, the joint action of the Parties.

SECTION 3. ESTABLISHMENT AND ORGANIZATION.

A. Formation of Consortium. By this Agreement, the Parties establish the North Shore Electricity Aggregation Consortium.

B. Membership. Each Party shall be a member of the Consortium.

C. Effective Date. This Agreement shall take effect, and the North Shore Electricity Aggregation Consortium shall be established, upon the execution of this Agreement by two or more Parties.

D. Duration. The Consortium shall have perpetual duration until dissolved and terminated as provided in Section 10.C of this Agreement.

E. Governance. The Agreement shall be managed, and the duties under this Agreement performed, by the respective chief administrative officers of each Party, or their respective duly authorized representatives or designees (each a "**Party Representative**"). Each Party Representative shall operate and act with respect to Agreement affairs and actions only pursuant to action duly authorized by the Party Representative's corporate authorities. Unless otherwise unanimously agreed to by the Party Representatives with respect to a specific action or policy, all actions pursuant to the Agreement shall be taken or established only by the unanimous consent of the Party Representatives.

F. Additional Parties. Additional local government entities may be added as Parties to this Agreement only: (a) if approved by all existing Parties; and (b) upon that entity's execution and approval of this Agreement, as may be amended, by an ordinance or resolution duly adopted by that entity's corporate authorities, and delivery of a certified copy of that ordinance or resolution.

SECTION 4. GENERAL COOPERATION.

A. Cooperation. The Parties acknowledge and agree to cooperate with each other in furtherance of the purposes, goals, and objectives of the Consortium and this Agreement. Cooperation required by this Agreement specifically includes, but is not limited to, the sharing and joint utilization by and among the Parties of information and other materials possessed or developed by the Parties, either individually or collectively, and necessary to investigate, identify, and otherwise document the Joint Power Supply Bid.

B. Independent Operation. Notwithstanding the provisions of Section 4.A of this Agreement, the Parties acknowledge and agree that each Party intends to operate a separate Electricity Aggregation Program for itself pursuant to its own plan of governance, and that neither this Agreement nor the Joint Power Supply Bid creates any responsibility or obligation for any Party to administer or operate any aspect of the Electricity Aggregation Program of any other Party.

SECTION 5. MARKET RESEARCH AND INVESTIGATION.

Upon the Effective Date of this Agreement, the Consortium shall research and investigate the electricity market and various options for the issuance of the Joint Supply Power Bid. The research and investigation required pursuant to this Section 5 shall include, without limitation, the establishment of an agreed schedule for the completion of all action items required for the issuance of the Joint Supply Power Bid and the adoption and implementation by each Party of an Electricity Aggregation Program ("**Agreed Schedule**"). The research and investigation may also include, without limitation:

A. Meetings among the Party Representatives to establish an action plan for the investigation;

B. Issuance of written requests for qualifications, questionnaires, or other inquiries to prospective electricity providers; and

C. Meetings with, and retention of, one or more professional consultants for the provision of recommendations regarding the contents of the Technical Requirements and the Contract Package (as those terms are defined in Section 6.B of this Agreement), and regarding the timing and issuance of the Joint Supply Power Bid.

SECTION 6. DEVELOPMENT OF OFFICIAL DOCUMENTS.

A. Plan of Operation and Governance.

1. Preparation. Prior to January 31, 2012, the Consortium shall jointly prepare a template plan of operation and governance for use by each Party, in compliance and accordance with Section 1-92 of the Act ("**POG**").

2. Public Hearings. Each Party shall be responsible for issuing all required public notices and conducting all required public hearings concerning the POG, in accordance with Section 1-92 of the Act. Each Party shall complete all required public hearings concerning the POG on or before the deadline set forth in the Agreed Schedule.

B. Technical Requirements and Contract Package. On or before the deadline set forth in the Agreed Schedule, the Consortium shall prepare sets of technical specifications and requirements ("**Technical Requirements**") and bidding and contract documents incorporating the Technical Requirements ("**Contract Package**") for the Joint Supply Power Bid, in accordance with the following:

1. The Consortium shall mutually select one Party to serve as the official coordinator to bid the Joint Power Supply Bid ("**Official Coordinator**").

2. The Consortium shall meet and confer and agree upon the Technical Requirements and Contract Package. The Contract Package shall include a contract to be executed by and between the contractor and each Party for the provision of electrical power to that Party pursuant to the Joint Power Supply Bid ("**Power Supply Agreement**"). The Contract Package shall, without limitation, require bidders to submit pricing to supply electric power to all Parties jointly, provided that the bidder's pricing structure must allow a Party or Parties to proceed with the Joint Power Supply Bid at the joint price, or a substantially similar price, even if one or more Parties fail to approve the Joint Power Supply Bid.

3. The Contract Package shall provide pricing options for one-year, two-year, and three-year terms.

4. The Contract Package shall further require the contractor to obtain and maintain, for the duration of the Power Supply Agreement, such proof of insurance and performance security as the Parties deem necessary.

5. The Contract Package shall further require the contractor to whom the Power Supply Agreement is awarded to indemnify each of the Parties pursuant to the terms of the Power Supply Agreement.

6. All Parties shall have an adequate opportunity to review and comment on the Technical Requirements and the Contract Package, and shall provide such comments to the Official Coordinator. Revised drafts of the Technical Requirements and the Contract Package

shall be prepared and reviewed by the Parties until such time as the Parties have approved the final Technical Requirements and Contract Package.

SECTION 7. EDUCATIONAL AND PUBLIC RELATIONS COOPERATION.

A. Preparation of Educational Materials. On or before January 31, 2012, the Consortium shall prepare educational and public relations documents and materials concerning the Joint Supply Power Bid (collectively, the “***Educational Materials***”).

B. Dissemination of Educational Materials. Each Party shall be responsible for the dissemination of the Educational Materials within its respective corporate boundaries prior to the primary election on March 20, 2012.

C. Compliance with Election Code. The content and distribution of all Educational Materials shall comply with the applicable provisions of the Illinois Election Code, 10 ILCS 5/1-1 *et seq.*

SECTION 8. BIDDING AND CONTRACTING PROCESS.

A. Adoption of Referendum. As soon as possible after the March 20, 2012 primary election, each Party Representative shall notify the other Party Representatives whether the Opt-Out Referendum was approved by the voters of that Party. In the event that the voters of any Party failed to approve the Opt-Out Referendum, that Party shall be automatically deemed to have withdrawn from the Consortium pursuant to Section 10.A of this Agreement.

B. Adoption of Approval Ordinance and POG. On or before the deadline set forth in the Agreed Schedule, the corporate authorities of each Party in which the Opt-Out Referendum was approved shall adopt: (1) an ordinance authorizing an opt-out Electricity Aggregation Program (“***Authorizing Ordinance***”) and (2) the POG. Any Party that fails to comply with this Section 8.B shall be automatically deemed to have withdrawn from the Consortium pursuant to Section 10.A of this Agreement.

C. Solicitation of Sealed Bids and Selection of Contractor.

1. Following the adoption of an Authorizing Ordinance and the POG by each Party, the Official Coordinator shall publicly issue the Technical Requirements and the Contract Package for solicitation of competitive sealed bids for the Joint Power Supply Bid, in accordance with the Agreed Schedule (“***Sealed Bids***”). The Official Coordinator shall establish a deadline for the submission of Sealed Bids, in accordance with the Agreed Schedule.

2. During the time following the issuance of the Technical Requirements and the Contract Package, and prior to the deadline for submission of Sealed Bids, the Official Coordinator shall issue such addenda to the prospective contractors as may be necessary to respond to the inquiries of such prospective contractors or to clarify the Technical Requirements and/or the Contract Package. The Official Coordinator shall consult with the other Parties prior to issuance of any such addenda. The Parties shall refer any inquiries or issues received or identified regarding the Technical Requirements and the Contract Package to the Official Coordinator for possible inclusion in such an addendum. No Party other than the Official Coordinator shall respond to any such inquiry or issue prior to the deadline for submission of Sealed Bids.

3. Following receipt of the Sealed Bids, the Official Coordinator shall provide copies of the Sealed Bids to each of the Parties. The Party Representatives shall examine and review the Sealed Bids and shall confer to discuss the Sealed Bids and to recommend to the Parties whether: (a) a contractor should be selected; and (b) a one-year, two-year, or three-year pricing structure should be selected.

D. Administration by the Parties. After the completion of the Joint Power Supply Bid and the award by a Party of its own Power Supply Agreement with the contractor, that Party shall be responsible to manage its own Power Supply Agreement and Electricity Aggregation Program.

SECTION 9. PAYMENTS AND EXPENSES.

A. Expenses. The Parties acknowledge and agree to use their respective staffs and resources, at no cost to the other Parties, for joint projects or actions undertaken by or on behalf of one or more of the Parties. The Parties acknowledge and agree that from time to time the Consortium may require professional services, including legal, engineering, governmental relations, technical, consulting, and market analysis assistance. Each Party shall be responsible for, and each Party agrees to pay or otherwise reimburse, any and all expenses incurred for these services, and any and all other expenses incurred by or on behalf of the Consortium pursuant to this Agreement (collectively, "***Shared Expenses***"). Any Shared Expenses shall be approved in advance by the Parties, and shall be divided in equal shares among the Parties.

B. Official Payor. Highland Park shall serve as the official payor of all Shared Expenses for and on behalf of the Consortium.

C. Costs of this Agreement. Pursuant to this Agreement, each Party shall be responsible to pay its respective share, using its own local funds, of the costs and expenses of the Consortium, including, without limitation, the cost of the Joint Power Supply Bid. Each Party shall budget and appropriate sufficient funds to pay its respective share of the costs and expenses of the Consortium by an ordinance or resolution approved by the Party's corporate authorities.

D. Approval by Corporate Authorities. The Parties acknowledge and agree that, although they intend to proceed under a joint bid, the corporate authorities of any Party may fail to approve the Joint Power Supply Bid or the related Power Supply Agreement. In either event, the remaining Party or Parties may either proceed with the Joint Power Supply Bid or proceed individually.

SECTION 10. WITHDRAWAL.

A. Right to Withdraw. Any Party may withdraw as a Party of the Consortium, prior to going out to bid on a Joint Power Supply Bid, upon the provision of written notice to the other Parties of its withdrawal.

B. Responsibility Upon Withdrawal. Any Party withdrawing from the Consortium pursuant to Section 10.A of this Agreement shall pay its share of any and all costs and expenses incurred by or on behalf of the Consortium prior to the effective date of the Party's withdrawal and for which the Party is responsible. If the Withdrawal of one or more Parties results in the dissolution and termination of the Consortium pursuant to Section 10.C of this

Agreement, the withdrawing Party or Parties shall cooperate and participate in the dissolution and termination of the Consortium.

C. Dissolution and Termination. The Consortium shall be dissolved and terminated upon the earlier to occur of: (1) the effective withdrawal pursuant to this Section 10 of one or more Parties so as to reduce the total number of Parties to fewer than two; (2) the written agreement of all of the Parties to this Agreement; or (3) December 31, 2012.

SECTION 11. GENERAL PROVISIONS.

A. Notices. All notices required or permitted to be given under this Agreement shall be given by the Parties by: (i) personal delivery; (ii) deposit in the United States mail, enclosed in a sealed envelope with first class postage thereon; or (iii) deposit with a nationally recognized overnight delivery service, addressed as stated in this Section 11.A. The address of any Party may be changed by written notice to the other Parties. Any mailed notice shall be deemed to have been given and received within three days after the same has been mailed and any notice given by overnight courier shall be deemed to have been given and received within 24 hours after deposit. Notwithstanding the foregoing, all notices related to the Technical Requirements of each Joint Power Supply Bid may be coordinated by the applicable Official Coordinator and Party Representatives by electronic mail or other means of communication, as appropriate.

Notices and communications to each Party shall be addressed to, and delivered at, the following addresses:

Deerfield:	Village of Deerfield 850 Waukegan Road Deerfield, IL 60015 Attn: Village Manager	Lake Forest:	The City of Lake Forest 220 E. Deerpath Lake Forest, IL 60045 Attn: City Manager
Glencoe:	Village of Glencoe 675 Village Court Glencoe, IL 60022 Attn: Village Manager	Northbrook:	Village of Northbrook 1225 Cedar Lane Northbrook, IL 60062 Attn: Village Manager
Highland Park:	City of Highland Park 1707 St. Johns Ave. Highland Park, IL 60035 Attn: City Manager	Park Ridge:	City of Park Ridge 505 Butler Place Park Ridge, IL 60068 Attn: Village Manager
Lake Bluff:	Village of Lake Bluff 40 E. Center Ave. Lake Bluff, IL 60044 Attn: Village Manager	Skokie:	Village of Skokie 5127 Oakton St. Skokie, IL 60077 Attn: Village Manager

With a copy to: Peter M. Friedman
Holland & Knight LLP
131 S. Dearborn, 30th Fl.
Chicago, IL 60603

B. Entire Agreement. There are no representations, covenants, promises, or obligations not contained in this Agreement that form any part of this Agreement or upon which

any of the Parties is relying in entering into this Agreement. This Agreement, and all covenants and provisions herein contained shall bind and inure to the benefit of each respective local governmental entity which is a party hereto and their respective successors and assigns.

C. Severability. If any provision of this Agreement is construed or held to be void, invalid, or unenforceable in any respect, the remaining provisions of this Agreement shall not be affected thereby but shall remain in full force and effect.

D. Interpretation. It is the express intent of the Parties that this Agreement shall be construed and interpreted so as to preserve its validity and enforceability as a whole. In case of any conflict among the provisions of this Agreement, the provision that best promotes and reflects the intent of the Parties shall control. The Parties hereto have been represented by counsel and have had full opportunity to discuss this Agreement prior to execution. This Agreement shall be construed without regard to the identity of the Party who drafted the various provisions of this Agreement. Moreover, each and every provision of this Agreement shall be construed as though all Parties to this Agreement participated equally in the drafting thereof. As a result of the foregoing, any rule or construction that a document is to be construed against the drafting party shall not be applicable to this Agreement.

E. Amendments and Modifications. This Agreement shall not be modified, changed, altered, or amended without the duly authorized and written consent of each of the Parties by their respective corporate authorities and pursuant to ordinances or resolutions duly adopted and approved by the Party's corporate authorities. No amendment or modification to this Agreement shall be effective until it is reduced to writing and approved by the corporate authorities of each Party and properly executed in accordance with all applicable law.

F. Authority to Execute. Each Party hereby warrants and represents to each other Party that the person executing this Agreement on its behalf has been properly authorized to do so by the corporate authorities of the Party.

G. No Third Party Beneficiaries. Nothing in this Agreement shall create, or shall be construed or interpreted to create, any third party beneficiary rights.

H. Indemnification. Each Party (the "***Indemnifying Party***") hereby agrees to indemnify, hold harmless and defend the other Parties (each an "***Indemnified Party***") from and against any and all losses, claims, expenses and damages (including reasonable attorneys' fees) made against or incurred by the Indemnified Party for any actions taken or failures to act by the Indemnifying Party in connection with a Joint Power Supply Bid that arise out of the Joint Power Supply Bid, each Party's Power Supply Agreement, each Party's Electricity Aggregation Program, Power Supply Agreement, or this Agreement, to the extent that such claims were not caused by actions, or failures to act, of the Indemnified Party.

I. Execution. This Agreement shall be executed by all of the Parties in identical original duplicates and each of the duplicates shall, individually and taken together, constitute one and the same Agreement.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Parties have by their duty authorized officers and representatives set their hands and affixed their seals to be effective as of the Effective Date of this Agreement.

ATTEST:


VILLAGE OF DEERFIELD

By: _____
Village Clerk

By: _____
Village Manager

ATTEST:

VILLAGE OF GLENCOE

By:  _____
Village Clerk

By:  _____
Village Manager

ATTEST:

CITY OF HIGHLAND PARK

By: _____
City Clerk

By: _____
City Manager

ATTEST:

VILLAGE OF LAKE BLUFF

By: _____
Village Clerk

By: _____
Village Manager

ATTEST:

THE CITY OF LAKE FOREST

By: _____
City Clerk

By: _____
City Manager

ATTEST:

VILLAGE OF NORTHBROOK

By: _____
Village Clerk

By: _____
Village Manager

ATTEST:

CITY OF PARK RIDGE

By: _____
Village Clerk

By: _____
Village Manager

ATTEST:

VILLAGE OF SKOKIE

By: _____
Village Clerk

By: _____
Village Manager

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