

ORIGINAL

RESOLUTION NO. R-2015-26

**A RESOLUTION AUTHORIZING THE APPROVAL AND EXECUTION OF
AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE
VILLAGE OF MAYWOOD, THE MAYWOOD HOUSING AUTHORITY AND
KLEIN, THORPE AND JENKINS, LTD.
WITH CONSENT TO DUAL REPRESENTATION LETTER**

**(TEMPORARY SHARING OF LEGAL SERVICES PROVIDER:
KLEIN, THORPE AND JENKINS, LTD.)**

WHEREAS, the President and Board of Trustees of the Village of Maywood desire to approve and enter into an agreement entitled "Intergovernmental Agreement Between the Village of Maywood, the Maywood Housing Authority and Klein, Thorpe and Jenkins, Ltd. With Consent To Dual Representation Letter. (Temporary Sharing of Legal Services Provider: Klein, Thorpe and Jenkins, Ltd.)" (the "Agreement") for the purposes set forth in the Agreement. A copy of the Agreement is attached hereto as Exhibit "A" and made a part hereof; and

WHEREAS, the Agreement pertains to the Maywood Housing Authority's ("MHA") temporary need for legal assistance until the MHA completes its request for proposal process seeking new legal counsel. The MHA is actively seeking new legal counsel through a request for proposal process. Under the Agreement, the MHA would use Klein, Thorpe and Jenkins, Ltd. to provide legal services on a temporary basis until the MHA hires new legal counsel; and

WHEREAS, the President and Board of Trustees of the Village of Maywood, a home rule Illinois municipal corporation, have the authority to enter into the Agreement pursuant to their home rule powers as provided by Article VII, Sections 6 and 10(a) of the Illinois Constitution of 1970 and the Intergovernmental Cooperation Act, 5 ILCS 220/1 *et seq.*, and find that entering into the Agreement is in the best interests of the Village.

NOW, THEREFORE, BE IT RESOLVED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF MAYWOOD, ILLINOIS, AS FOLLOWS:

SECTION 1: Each Whereas paragraph above is incorporated by reference into this Section 1 and made a part hereof as material and operative provisions of this Resolution.

SECTION 2: The President and Board of Trustees of the Village of Maywood authorize the approval and execution of an agreement entitled "Intergovernmental Agreement Between the Village of Maywood, the Maywood Housing Authority and Klein, Thorpe and Jenkins, Ltd. With Consent To Dual Representation Letter. (Temporary Sharing of Legal Services Provider: Klein, Thorpe and Jenkins, Ltd.)" for the purposes set forth in the Agreement. A copy of the Agreement is attached hereto as Exhibit "A"

and made a part hereof. The President and Board of Trustees of the Village of Maywood authorize and direct the Village President or the Village Manager and Village Clerk, or their designees, to execute said Agreement and Informed Consent Letter, and to execute and deliver all other instruments and documents and pay all expenses that are necessary to fulfill the Village's obligations under the Agreement.

ADOPTED this 17th day of November, 2015, pursuant to a roll call vote as follows:

AYES: Trustee(s) H. Yarbrough, A. Dorris, M. Rogers, M. Lightford and R. Rivers.

NAYS: Mayor Edwenna Perkins

ABSENT: Trustee I. Brandon

APPROVED by me this 18th day of November, 2015, and attested to by the Village Clerk this same day.

Edwenna Perkins

Village President

ATTEST:

[Signature]

Village Clerk



Exhibit "A"

**Intergovernmental Agreement Between
the Village of Maywood, the Maywood Housing Authority and
Klein, Thorpe and Jenkins, Ltd. With Consent To Dual Representation Letter**

(Temporary Sharing of Legal Services Provider: Klein, Thorpe and Jenkins, Ltd.)

(attached)

**INTERGOVERNMENTAL AGREEMENT BETWEEN THE
VILLAGE OF MAYWOOD, THE MAYWOOD HOUSING AUTHORITY AND
KLEIN, THORPE AND JENKINS, LTD. WITH CONSENT TO DUAL REPRESENTATION LETTER.**

**(TEMPORARY SHARING OF LEGAL SERVICES PROVIDER:
KLEIN, THORPE AND JENKINS, LTD.)**

This AGREEMENT, entered on _____, 2015, is by and between the Village of Maywood, Cook County, Illinois, an Illinois municipal corporation (hereinafter "Village") and the Maywood Housing Authority, a public housing authority, (hereinafter "MHA") and Klein, Thorpe and Jenkins, Ltd., a law firm located in Chicago, Illinois.

WITNESSETH

Whereas, the MHA is in need of legal services and assistance with certain projects and tasks;

Whereas, the Village has retained Klein, Thorpe and Jenkins, Ltd. to provide legal services;

Whereas, the Village is willing to provide the MHA the use of its retained counsel only upon the terms and conditions as set forth below in this Agreement;

Whereas, a written agreement between the Village and the MHA can be a cost-effective way to satisfy the MHA's short term need for legal services and assistance until the MHA completes its request for proposal process seeking new legal counsel. The MHA is actively seeking new legal counsel through a request for proposal process; and

Whereas, Klein, Thorpe and Jenkins, Ltd. is willing to provide legal services to the MHA on a temporary basis until the MHA completes its request for proposal process seeking new legal counsel and hires new legal counsel.

Now, therefore, in consideration of these premises, and such other considerations as hereinafter set forth, the parties hereto agree as follows:

Section A. GENERAL PROVISIONS.

1. **Consent to Dual Representation.** The Village consents to and agrees to allow the MHA temporary access to and use of its retained legal counsel (Klein, Thorpe and Jenkins, Ltd.) to handle legal matters pertaining to the MHA, and the MHA consents to and agrees that the Village will continue to use Klein, Thorpe and Jenkins, Ltd. on a day to day basis, as Village Attorney, according to the terms set forth herein. A detailed and executed Consent to Dual Representation is attached hereto as **Exhibit 1** and made a part hereof, and shall be signed by representatives of the Village and the MHA.

2. **Contact for Services.** The MHA shall contact the Village's legal counsel (a Klein, Thorpe and Jenkins, Ltd. attorney other than Michael Jurusik or Michael Marrs) on an as-needed basis to request assistance

with tasks such as contract review and preparation; review and response to FOIA requests; review of legal documentation and to provide legal advice upon request.

3. **Obligation of MHA to Pay Legal Fees and Charges.** On a monthly basis, the Village shall send to the MHA the billing statements of Klein, Thorpe and Jenkins, Ltd. that relate to legal services provided to the MHA by Klein, Thorpe and Jenkins, Ltd. The Village will not add any additional fee or charges to the billing statements. The MHA agrees to pay to the Village the actual, documented legal service fees and charges of Klein, Thorpe and Jenkins, Ltd. that relate to legal services provided to the MHA. The MHA shall pay the billing statements provided by the Village within thirty (30) days of the statement date. Any confidential information that is contained in the monthly billing statements of Klein, Thorpe and Jenkins, Ltd. relate to legal services provided to the MHA shall be redacted by Klein, Thorpe and Jenkins, Ltd. before sending the billing statements to the Village. The MHA shall receive a copy of the unredacted billing statements directly from Klein, Thorpe and Jenkins, Ltd. on a monthly basis.

4. **Approval.** This Agreement shall be contingent upon the approval of the Department of Housing and Urban Development (hereinafter "HUD"). Should HUD determine that this Agreement, or the procurement of legal services is not in accordance with the MHA's policies, plan or authority, this Agreement shall be immediately terminated. Klein, Thorpe and Jenkins, Ltd. shall not perform any legal services for the MHA under this Agreement until written approval of this Agreement is issued by HUD.

5. **Hourly Rate.** The MHA shall determine the cost of each legal request prior to engaging the Village's counsel to ensure cost efficacy. The MHA shall not be billed by Klein, Thorpe and Jenkins, Ltd. for any legal services at an hourly rate that exceeds \$170.00.

6. **Disclaimer.** It is understood that the Village does not warrant, or guarantee, the legal services of its retained counsel, Klein, Thorpe and Jenkins, Ltd., that are provided to the MHA.

7. **Conflict of interest Between the Village and the MHA.** In the event a conflict of interest is created due to a dispute arising that involves the Village and the MHA, the parties agree that Klein, Thorpe and Jenkins, Ltd. shall not represent either the Village or the MHA in regard to the matter that gives rise to the conflict of interest. In such case, the Village and the MHA will each hire their own special counsel to handle such matter. In the event that a dispute/conflict of interest between the Village and the MHA does arise, this Agreement will immediate terminate and Klein, Thorpe and Jenkins, Ltd. shall no longer represent the MHA in any legal matters and will continue to represent the Village, as Village Attorney, in all pending and future Village related matters other than the dispute/conflict of interest matter. A detailed and executed Consent to Dual Representation is attached hereto as **Exhibit 1** and made a part hereof.

8. **Effective Date.** The effective date of this Agreement shall be the date upon which it is executed by the last signatory. All provisions shall take effect immediately unless otherwise noted above.

9. **Term; Review and Amendments.** The Term of this Agreement shall be until the MHA hires new legal counsel, or for six (6) months from the Effective Date, whichever is earlier, unless otherwise terminated

by any party. The parties may extend or modify the six (6) month term or any other provisions of this Agreement if approved in writing by each of the parties and duly executed by the authorized representatives.

10. Termination. The Village or the MHA or Klein, Thorpe and Jenkins, Ltd. may terminate this Agreement at any time and for any reason upon delivery of a written notice of termination to the other parties to their business addresses.

11. Effect of Agreement. This Agreement contains the entire agreement of the parties. The Village and the MHA and Klein, Thorpe and Jenkins, Ltd. recognize that this Agreement is the product of a unique set of circumstances. Accordingly, it is mutually acknowledged that many of the provisions contained herein are unique to this limited situation and should not be seen as precedent for any future agreement between the Village, the MHA and other entities.

12. Severability. If any clause, provision or section of this Agreement be declared invalid by any Court of competent jurisdiction, the invalidity of such clause, provision or section shall not affect any of the remaining provisions of this Agreement.

13. Binding Agreement. This Agreement is binding upon the parties hereto and their respective successors and assigns.

Signed by the Village of Maywood

(Signature)

(Date)

(Printed name and title)

Signed by Maywood Housing Authority

(Signature)

(Date)

(Printed name and title)

Accepted by Klein, Thorpe and Jenkins, Ltd.

By: _____

Michael T. Jurusik, Shareholder

Date: _____, 2015.



November 6, 2015

Village of Maywood
Attn: Willic Norfleet, Jr.
Village Manager
40 E. Madison
Maywood, Illinois 60153

Maywood Housing Authority
Attn: Dianne Williams
Chair
801 South 5th Avenue
Maywood, Illinois 60153

Re: Consent to Dual Representation

Dear Mr. Norfleet and Ms. Dianne Williams:

As you are aware, the Maywood Housing Authority ("MHA") has sought to retain Klein, Thorpe and Jenkins, Ltd ("KTJ") to provide legal services until it completes its request for proposal process seeking new legal counsel and hires new legal counsel. KTJ has long acted as Village Attorney for the Village of Maywood (the "Village") and continues to do so. The representation of both Parties shall be pursuant to the terms and conditions of an Intergovernmental Agreement between the Village, MHA, and KTJ.

As KTJ will be representing both the Village and MHA for some limited period of time, we believe that it is necessary to (1) advise you that a conflict of interest between the two (2) entities may arise, and (2) obtain your informed consent to our dual representation of both entities, if so desired, in order to provide further legal advice.

Under the applicable Illinois Rules of Professional Conduct, a law firm owes its clients a duty of loyalty. Normally, this duty would preclude any attorney within the firm from undertaking a representation that is adverse to any client of the firm, without the affected client's informed consent. Other ethical rules generally prohibit a law firm from undertaking any representation involving an actual or potential conflict of interest, without the informed consent of all the affected clients. This situation exists whenever a law firm represents two (2) clients simultaneously in a situation where their interests are actually or potentially adverse. The conflict of interest, and the need for informed consent, exists no matter how cordial the business relationship between the two (2) clients may be, or is anticipated to be, and no matter how non-controversial the transaction in question is anticipated to be.

Because our firm has an attorney-client relationship with the Village and may enter into an attorney-client relationship with MHA, it may not be possible for our law firm to represent both parties in dealings with each other in a manner as aggressive as may be involved with representation by two (2) separate and independent law firms. By giving the consent requested in this letter, the Village and MHA may, in effect, be giving up that kind of zealous and/or

aggressive representation of its individual interests with respect to matters involving both entities.

Further, if a dispute or conflict of interest should arise in the future between the Village and MHA regarding their dealings with each other, our law firm would have to withdraw from representing MHA and the Village with regard to that dispute. In other words, the Village and MHA would then each have to retain separate counsel for said limited purpose. The Village would, under such circumstances, and pursuant to the Intergovernmental Agreement entered into between the Parties, terminate its representation of MHA at such time, and would continue to represent the Village of Maywood in all other matters as Village Attorney.

We reasonably believe that our firm may provide competent and diligent representation to each affected entity. Because of the current client relationship of our firm with the Village, and the commencement by KTJ of the provision of legal services to MHA, and the potential that a conflict or dispute could arise between the Parties, KTJ's representation of both Parties requires your informed consent.

Although the interests of the Village and MHA should generally be consistent, the Village, MHA, and KTJ each recognize and understand that differences may now exist or may become evident during the course of KTJ's joint representation.

Notwithstanding these possibilities, by agreeing to the terms of this letter both the Village and KTJ acknowledge that they have determined that it is in their individual and mutual interest to have KTJ represent both parties under the terms and conditions of the IGA until such time as MHA completes its request for proposal process and hires new legal counsel.

Accordingly, this letter shall serve to advise you of the risks of dual representation and to confirm the agreement of the Village and MHA that our firm may represent both the Village and MHA until such time as MHA completes its request for proposal process and hires new legal counsel. This letter also confirms that the Village and MHA have each agreed to waive any conflict of interest arising out of, and that neither the Village nor MHA will object to, our representation of the Village or MHA in day-to-day legal matters, even when such matters involve both Parties.

Please also be advised that neither the Village nor MHA is obligated to consent to KTJ's dual representation, and either party is free to decline to consent to dual representation, at which time KTJ would not proceed to represent MHA and would continue to represent the Village as Village Attorney.

This letter may be signed in separate counterparts by the Village and MHA, each of which counterparts shall be deemed an original, but both of which together shall constitute one and the same instrument. Notwithstanding anything to the contrary herein, the persons who have signed this letter represent and warrant that they have all necessary authority to execute this agreement on behalf of the party that they represent.

We are available to answer any questions the Village or MHA may have concerning this letter. If you agree that the foregoing accurately reflects the understanding and agreement of the Village and MHA, please sign this letter as follows:

ACCEPTED:
THE VILLAGE OF MAYWOOD

Sign: _____

Printed Name: _____

Title: _____

Date: _____

ACCEPTED:
MAYWOOD HOUSING AUTHORITY

Sign: _____

Printed Name: _____

Title: _____

Date: _____

Very truly yours,

KLEIN, THORPE AND JENKINS, LTD.

Michael T. Jurusik

cc. Mayor Edwenna Perkins and Board of Trustees

