



Phillips Lytle LLP

VIA EMAIL

November 17, 2016

Joseph T. Burns, Esq.
Secretary to the Authority
Erie County Water Authority
350 Ellicott Square Building
295 Main Street
Buffalo, NY 14203-2494

Re: Investigative Post Matter

Dear Mr. Burns:

The purpose of this letter is to confirm the terms and conditions of the representation of Erie County Water Authority ("Client," "ECWA," or "you") by Phillips Lytle LLP ("Firm," "we," or "us") in this matter ("Matter"), which involves review of the legal and potential environmental issues relating to the Investigative Post publications, and advice, potential litigation and/or negotiations regarding those issues.

Scope of Firm's Representation. You have engaged the Firm to represent the Client in connection with the Matter.

The Firm's services will be limited to the representation of the Client in the Matter. Our services will not extend to the general business, personal or legal affairs of the Client, or to any other aspect of the Client's activities. It is understood that the Firm will not settle, negotiate or compromise the Matter without your consent.

Assignment of Firm Personnel. John Schmidt will be primarily responsible for the supervision of the Matter, but you are engaging the Firm. As and when necessary, we will draw upon the talent and expertise of other partners and associates within the Firm and utilize paralegal staff to handle administrative and other tasks.

ATTORNEYS AT LAW

JOHN G. SCHMIDT JR., PARTNER DIRECT 716 847 7095 JSCHMIDT@PHILLIPSLYTLE.COM

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Communication by Firm. The Firm will keep you regularly and currently informed of the status of this Matter and will consult with you when appropriate. Copies of significant correspondence and documents will be sent to you from time to time for that purpose. In the event that you need to reach the Firm and the person sought is unavailable, please leave a message for the person concerned disclosing the nature and urgency of the call. It is our policy that all calls will be returned promptly and, in any event, no later than within one business day of receipt of the call; if you have not received a return call within that time, please call again.

Client Cooperation. You understand and agree that, in order for us to represent you effectively, it is necessary for you to assist and cooperate with the Firm during this Matter. You agree to (1) make Client (including employees) available to discuss issues as they arise in this Matter; (2) attend and participate in meetings, preparation sessions, and other activities as necessary in connection with this Matter; and (3) provide complete and accurate information and documents to us on a timely basis. Your failure to cooperate will be grounds for the Firm's withdrawal from representing you in this Matter, and thus, it is essential that we maintain open communications.

Protection of Client Confidences – High Tech Communication Devices. As lawyers, we are always mindful of our central obligation to preserve the precious trust which our clients repose in us – their secrets and confidences. Accordingly, we request that you alert us if you have any concerns regarding email or cell phone communications.

Fees and Expenses. The Firm's fees are based on the actual time spent on the Matter by the Firm's attorneys. Each attorney, whether an associate or a partner, has an hourly rate at which his or her time is charged. That rate is set by the Firm, taking into consideration the individual's professional expertise and other relevant factors. My current hourly rate is \$400.00. Alan J. Bozer and Deena K. Mueller will be assisting with the Matter, and their current hourly rates are \$410.00 and \$215.00, respectively. Morgan G. Graham will be involved on the environmental issues. His current hourly rate is \$435.00. Other attorneys may become involved as necessary at similar rates.



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Paralegals may also be involved as needed, at hourly rates from \$155.00 to \$180.00. (The foregoing information is provided to you on a confidential basis.)

Certain ancillary services and other items, such as photocopying, long distance telephone calls, messenger services, e-discovery vendors, electronic data storage, computer database searches, word processing, secretarial and other support staff overtime, and other expenses incurred for the benefit of the Client, are billed separately from time charges, based on actual use and at our cost. Our invoices may also include, at our cost, amounts incurred on your behalf, including mileage, meal expenses and similar expenses.

We will bill you on a monthly basis and will expect to be paid within 30 days of the date of the invoice. Billing for ancillary services may lag the rendering or use of those services by several months because of delays in the receipt of third-party bills and the posting of accounts.

Termination of Representation. You may terminate our representation of you in this Matter at any time, subject to the payment of any final billings. We may withdraw from this representation for good cause, on reasonable written notice, without your consent. Good cause includes but is not limited to: (1) your failure to cooperate with us as provided above; (2) your failure to pay any bill when due; and (3) any fact or circumstance that would render our continuing representation unlawful or unethical.

Arbitration of Disputes. Although this letter sounds very formal, the Joint Rules of the New York Supreme Court Appellate Division require such a letter. Further, we advise that pursuant to Part 137 of the Rules of the Chief Administrator of the Courts, in the event a dispute arises between you and us relating to our fees, you may have the right to arbitration of that dispute. Upon request, we will send you a copy of Part 137.

Binding Agreement. By acknowledging this letter by signing below, you acknowledge that this letter has been carefully reviewed and its content understood and that you agree to be bound by all of its terms and conditions. Furthermore, you acknowledge



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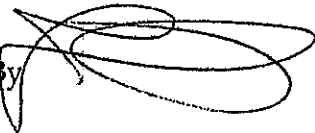
that the Firm has made no representations or guarantees to you regarding the outcome of the Matter or the time or cost necessary to resolve the Matter. No change or waiver of any of the provisions of this letter shall be binding on either you or on the Firm unless the change is in writing and signed by both you and the Firm.

Please confirm the foregoing by signing below and returning via email. Please do not hesitate to call me to discuss any questions you may have regarding this letter.

Thank you again for the opportunity to be of service to you; we look forward to working with you.

Very truly yours,

Phillips Lytle LLP

By 

John G. Schmidt Jr.

JGSpO/Doc #01-2997068.1

I have reviewed and agreed to the above terms of engagement of Phillips Lytle LLP for the purposes and to the extent described in this letter.



~~Joseph T. Burns, Esq.~~ (JTB)

Earl L. Jann

Chairman, Erie County
Water Authority

November 17, 2016

Date

**Central Purchasing
Declaration of State of Emergency**

Work Order No.: _____

OWIP No.: _____

Project No.: _____

Date of Emergency: 11/16/16

Detailed Description of Emergency Condition:

Action to hire attorney John Schmidt Jr. of Phillips
Lytle to represent the Erie County Water Authority
in action against Investigative Post for
improper conduct. Board Resolution to follow.

Authorized Signature: Pursuant to the Purchasing Guidelines (Page 17) authorization granted to one or more of the following two (2) individuals: Any Commissioner, the Executive Director, Executive Engineer, and/or the Director of Administration.

Paul H. Rient
Russell J. Fots

To: Purchasing System File