

# DuPage Water Commission

## By-Laws

### DuPAGE WATER COMMISSION

#### ORDINANCE NO. O-XX-12

#### AN ORDINANCE AMENDING AND RESTATING THE BY-LAWS OF THE DuPAGE WATER COMMISSION

WHEREAS, the DuPage Water Commission (the "Commission") is a county water commission created and existing under the Water Commission Act of 1985, 70 ILCS 3720/0.001 *et seq.* (hereinafter referred to as the "Act"), and Division 135 of Article 11 of the Illinois Municipal Code, 65 ILCS 5/11-135-1 *et seq.* (hereinafter referred to as the "Water Commission Statute"); and

WHEREAS, the Act provides that the Commission "shall determine its own rules of proceeding"; and

WHEREAS, on May 27, 1987, the Commission adopted Ordinance No. O-6-87, being an "Ordinance Adopting By-Laws of the DuPage Water Commission," which Ordinance was amended from time to time; and

WHEREAS, on March 12, 1992, the Commission adopted Ordinance No. O-5-92, being "An Ordinance Restating the By-Laws of the DuPage Water Commission", which Ordinance restated, into a single ordinance, the By-Laws adopted pursuant to Ordinance No. O-6-87, as previously amended, for purposes of clarity and ease of reference, and was, in turn, further amended from time to time (the "By-Laws"); and

WHEREAS, the By-Laws have not been comprehensively updated since 1992;  
and

WHEREAS, the Board of Commissioners of the DuPage Water Commission has determined that it is reasonable, necessary and desirable, and in the best interest of the Commission, to amend and restate in their entirety the By-Laws;

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners of the DuPage Water Commission, as follows:

SECTION ONE: Recitals. The foregoing recitals are incorporated herein and made a part hereof as findings of the Board of Commissioners of the DuPage Water Commission.

SECTION TWO: Amendment and Restatement. The By-Laws of the DuPage Water Commission, as previously amended, shall be, and they hereby are, amended and restated in their entirety so that said By-Laws shall hereafter be and read as set forth in Exhibit 1 attached hereto and by this reference incorporated herein and made a part hereof.

SECTION THREE: Effective Date. This Ordinance shall be in full force and effect from and after its adoption by a majority affirmative vote of all of the Commissioners, including the affirmative votes of at least one-third of the Commissioners appointed by the County Board Chairman and 40% of the Commissioners appointed by the Mayors.

AYES:

NAYS:

ABSENT:

ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
Chairman

ATTEST:

\_\_\_\_\_  
Clerk

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DRAFT

**EXHIBIT 1**

DRAFT

AMENDED AND  
RESTATED BY-LAWS OF  
THE DuPAGE WATER COMMISSION

ARTICLE I

GENERAL PROVISIONS

Section 1 General Purpose. The general purpose of the Commission is to provide a sufficient and economic source and supply of water to the DuPage County area by various means, including the development and operation of a water supply system to acquire and distribute water from Lake Michigan to its Charter Customers and other customers having an allocation pursuant to the Level of Lake Michigan Act, as amended from time to time, and orders of the State of Illinois Department of Natural Resources, Office of Water Resources, the successor to the responsibilities of the State of Illinois Department of Transportation, Division of Water Resources. The general purpose of these By-Laws is to establish the rules of proceeding of the Commission.

Section 2 Corporate Authority: The Board of Commissioners shall be the corporate authority of the Commission and shall have the power to pass and enforce all necessary ordinances, resolutions, rules, regulations and administrative orders for the conduct of business and management of property of the Commission.

ARTICLE II

COMMISSION AND COMMISSIONERS

Section 1 Composition. The corporate authority of the Commission shall consist of a Board of Commissioners, to be appointed as follows:

- a. One Commissioner, who shall serve as Chairman, shall be appointed by the Chairman of the DuPage County Board with the advice and

consent of the DuPage County Board and with the advice and consent of the Board of Commissioners.

- b. One Commissioner from each county board district of DuPage County shall be appointed by the Chairman of the DuPage County Board with the advice and consent of the DuPage County Board.
- c. One Commissioner from each county board district of DuPage County shall be appointed by the majority vote of the mayors of the municipalities within said district which constitute "included" units as defined in the Act, which have the majority of their residents within said district, and which have not switched their status from being an included unit to an excluded unit as provided in the Act.

Section 2 Duties. The Commissioners shall perform those duties prescribed by the Water Commission Act of 1985, 70 ILCS 3720/0.001 *et seq.* (hereinafter referred to as the "Act"), and Division 135 of Article 11 of the Illinois Municipal Code, 65 ILCS 5/11-135-1 *et seq.* (hereinafter referred to as the "Water Commission Statute") and such other duties as may from time to time be provided for by law or by the Commission.

Section 3 Term. Except for the terms of the Commissioners initially appointed and qualified under the Act after its amendment by Public Act 96-1389, Commissioners shall serve for a term of six years or until their successors have been appointed and have qualified. The terms of the Commissioners initially appointed and qualified under the Act after its amendment by Public Act 96-1389 shall be set and staggered in accordance with the Act without the possibility of holding over. A Commissioner shall be eligible for reappointment upon the expiration of a term. A Commissioner may be a member of the

governing board or an officer or employee of DuPage County or any unit of local government within DuPage County.

Section 4 Vacancy: A vacancy in the office of a Commissioner shall be filled for the balance of the unexpired term by appointment and qualification as to residency in the same manner as the original appointment was made.

Section 5 Removal: Any Commissioner may be removed by the appointing authority for any cause for which any other county or municipal officer may be removed. Removal shall be effected in the same manner as the initial appointment of the Commissioner in question.

Section 6 Bond: Each Commissioner shall furnish such bonds as may be required by law for the faithful performance of that Commissioner's official duties. The cost of such bonds shall be paid by the Commission.

Section 7 Compensation. Each Commissioner who is not a member of the governing board or an officer or employee of a unit of local government within DuPage County shall receive the maximum amount provided for in the Act as compensation for his or her services as a Commissioner. In addition, each Commissioner may be reimbursed for actual expenses incurred in connection with Commission business. (Last amended November 14, 2002 by Ordinance No. O-11-02).

### ARTICLE III

#### OFFICERS OF THE COMMISSION

Section 1 Generally: The Officers of the Commission shall be the Chairman, the Vice-Chairman, the Chairman Pro-Tem, the Treasurer, the Clerk, the General Manager and the Financial Administrator.

Section 2 Chairman:

- a. Appointment. The Chairman shall be appointed by the Chairman of the DuPage County Board with the advice and consent of the DuPage County Board and with the advice and consent of the Board of Commissioners.
- b. Powers and Duties. The Chairman shall:
  - (i) perform those duties prescribed by law or by the Commission, and all duties incident to the office of Chairman of the Commission;
  - (ii) preside at all meetings of the Commission;
  - (iii) appoint the Treasurer with the advice and consent of the DuPage County Board and with the advice and consent of the other Commissioners by a majority affirmative vote, which majority must contain the votes of at least one-third (1/3) of the Commissioners appointed by the Chairman of the DuPage County Board and at least forty percent (40%) of the Commissioners appointed by the DuPage County mayors as provided in the Act;
  - (iv) appoint the Clerk pursuant to the recommendation of the General Manager and with the advice and consent of the other Commissioners;

- (v) appoint all committees, committee chairman and task force members with the advice and consent of the other Commissioners;
- (vi) sign all ordinances, resolutions and other documents duly authorized to be signed on behalf of the Commission and required to be signed by the Chairman of the Commission;
- (vii) assign duties to officers, committees and task forces of the Commission with the advice and consent of the other Commissioners; and
- (viii) Have the power to vote in the same manner as the other Commissioners.

The Chairman's vote and presence shall be, and be counted as, that of a Commissioner for all purposes under these By-Laws.

Section 3 Vice-Chairman: The Vice-Chairman shall be one of the Commissioners appointed by the DuPage County mayors as provided in the Act, and shall be appointed to such office by a majority vote of all of the Commissioners appointed by the DuPage County mayors as provided in the Act. The Vice-Chairman shall serve until the end of the second fiscal year after appointment or until a successor is appointed. The Vice-Chairman shall be eligible for reappointment upon the expiration of a term. The Vice-Chairman shall be assigned such duties as the Chairman deems appropriate. In the event of the Chairman's absence or inability to act, the Vice-Chairman shall, during such absence or inability to act, or until such time as a new Chairman is appointed by the Chairman of the DuPage County Board with the advice and consent of the DuPage

County Board and the Board of Commissioners, perform all duties and exercise all powers within the normal purview of the Chairman, including execution of ordinances, resolutions and other documents.

Section 4 Chairman Pro-Tem: In the event of the temporary absence or inability of both the Chairman and the Vice-Chairman to perform the duties of Chairman at a Commission meeting, the Commissioners shall elect from their number in attendance a Chairman Pro-Tem to serve as Chairman of said meeting and to perform the duties and exercise the powers of Chairman at the meeting, including execution of ordinances, resolutions and other documents approved or authorized by the Commission at said meeting.

Section 5 Treasurer:

- a. Appointment. The Treasurer shall be appointed by the Chairman with the advice and consent of the DuPage County Board and with the advice and consent of the other Commissioners by a majority affirmative vote, which majority must contain the votes of at least one-third (1/3) of the Commissioners appointed by the Chairman of the DuPage County Board and at least forty percent (40%) of the Commissioners appointed by the DuPage County mayors as provided in the Act. The Treasurer shall be appointed solely on the basis of demonstrated financial background and experience to monitor and report on Commission financial matters and budgeting with special weight given to actual experience in or knowledge of acceptable practice relating to the duties of the position as hereinafter set forth. The Treasurer need not be a Commissioner.

The Treasurer shall serve at the pleasure of the Commission, and may be removed without cause by the Chairman with the advice and consent of the other Commissioners. The Treasurer, if not a Commissioner, shall be given notice of all meetings of the Commission and shall have the right to take part in the discussion of matters before the Commission.

b. Duties. The Treasurer shall:

- (i) perform or cause to be performed those duties prescribed by law or by the Commission;
- (ii) have principal responsibility for the oversight of and advise the Finance Committee and the Board of Commissioners regarding:
  - (a) the receipt, deposit and disbursement of monies;
  - (b) the Commission's investment practices, paying particular attention to safety of principal and compliance with existing bond ordinances;
  - (c) the Commission's accounting and control systems and whether or not they are consistent with generally accepted accounting principles;
  - (d) relationships with the financial community; and
  - (e) overall treasury and cash management objectives of the Commission;
- (iii) review financial procedures and practices employed by the Financial Administrator and the General Manager,

including the deposit of funds, the making of disbursements, the maintenance of a check register, the reconciliation of bank statements, the segregation of financial duties, the restriction of access to the established accounting and general ledger systems and the overseeing of the annual audit, and advise the Finance Committee and the Board of Commissioners on the efficiency of such procedures and practices;

- (iv) require the Financial Administrator and the General Manager to document and comply with standard accounting policies, procedures and controls to ensure accurate reporting to the Finance Committee and the Board of Commissioners and to identify improper or unnecessary expenditures, budgetary errors or accounting irregularities;
- (v) review and approve the Financial Administrator's review and approval of manual journal entries and supporting documentation;
- (vi) review and approve monthly bank reconciliations and general account reconciliations;
- (vii) report to the Finance Committee and the Board of Commissioners any improper or unnecessary expenditures, budgetary errors or accounting irregularities;

- (viii) require the Financial Administrator and the General Manager to provide to the Finance Committee and the Board of Commissioners monthly reports regarding the Commission's cash and investment position, including whether the Commission has sufficient cash and investments to pay its debt service, operating expenses, and capital expenditures and to maintain required reserve levels, the required funding levels for restricted funds, the unrestricted cash and investment balances with comparisons to unrestricted reserves, and the type and performance of the Commission's investments and whether those investments are in compliance with the Commission's investment policies;
- (ix) require the Financial Administrator and the General Manager to provide to the Finance Committee and the Board of Commissioners detailed information concerning the Commission's operating performance, including the budgeted and actual monthly amounts for water sales, water costs and other operating expenses;
- (x) require the Financial Administrator and the General Manager to closely monitor and provide to the Finance Committee and the Board of Commissioners detailed information concerning the progress of construction and

other capital projects, including whether the percentage of completion and costs incurred are timely;

- (xi) require the Financial Administrator and the General Manager to provide monthly to the Finance Committee monthly bank reconciliations and general account reconciliations and to provide full and timely reports documenting any GAAP analysis or communications with GASB;
- (xii) require such other reports or information from the Financial Administrator or General Manager as may be necessary to perform the duties hereinabove set forth; and
- (xiii) Furnish such bonds as may be required by law or the Commission for the faithful performance of the Treasurer's official duties. The cost of such bonds shall be paid by the Commission.

Section 6 Clerk:

- a. Appointment. The General Manager shall recommend to the Board of Commissioners persons, who need not be Commissioners, for appointment to the office of Clerk. The Clerk shall be appointed by the Chairman with the advice and consent of the other Commissioners. The Clerk shall serve at the pleasure of the Commission, and may be removed without cause by the Chairman with the advice and consent of the other Commissioners.

- b. Duties. The Clerk shall:
- (i) perform or cause to be performed those duties prescribed by law or by the Commission;
  - (ii) attest the validity of each ordinance, resolution, contract or other document adopted, entered into or maintained as a record by the Commission;
  - (iii) have principal responsibility for the oversight of and advise the Board of Commissioners regarding:
    - (a) compliance with the Illinois Open Meetings Act (5 ILCS 120/1 *et seq.*); and
    - (b) Compliance with the Illinois Freedom of Information Act (5 ILCS 140/1 *et seq.*);
  - (iv) review the recordkeeping procedures employed by the General Manager to assure that the vote of each Commissioner on each ordinance, resolution, motion or other proposition brought to a vote is duly recorded and that a permanent record of the minutes of each Commission meeting is recorded, approved and maintained;
  - (v) require such reports or other information from the Administrative Staff as may be necessary to perform the duties hereinabove set forth; and
  - (vi) Furnish such bonds as may be required by law or the Commission for the faithful performance of the Clerk's

official duties. The cost of such bonds shall be paid by the Commission.

Section 7 General Manager:

- a. Appointment: The General Manager shall be appointed by a majority affirmative vote of all the Commissioners, which majority must contain the votes of at least one-third (1/3) of the Commissioners appointed by the Chairman of the DuPage County Board and at least forty percent (40%) of the Commissioners appointed by the DuPage County mayors as provided in the Act, and with the advice and consent of the DuPage County Board. The General Manager shall be appointed for an indefinite term and solely on the basis of demonstrated executive and administrative qualifications with special weight given to actual experience in or knowledge of acceptable practice relating to the duties of the position as hereinafter set forth. No Commissioner shall receive an appointment as General Manager during their term of appointment as Commissioner or within one year after the expiration of such term. The General Manager shall serve at the pleasure of the Commission, and may be removed without cause by the Chairman with the advice and consent of the other Commissioners. The General Manager may demand a written statement of the reasons for any such removal, which shall be furnished within twenty days after the filing of such request. The action of the Chairman in removing the General Manager shall be final.

b. Duties. The General Manager shall be the chief administrative officer of the Commission and shall be responsible for the efficient administration and management of Commission affairs. The duties of the General Manager shall include, but are not necessarily limited to, the following:

- (i) administrative responsibility for the organization, acquisition, construction, operation and maintenance of the water supply system of the Commission;
- (ii) enforcing the ordinances of the Commission;
- (iii) supervising all Administrative Staff and consultants of the Commission;
- (iv) hiring personnel to fill positions or vacancies on the Commission's Administrative Staff and discharging or retiring such employees in accordance with administrative rules and procedures established by the Commission;
- (v) preparing an agenda for each Commission meeting in advance for general distribution;
- (vi) attending all Commission meetings unless excused therefrom;
- (vii) attending any Commission committee meeting at which his or her attendance has been requested;
- (viii) attending relevant meetings of the Commission's Charter Customers when so requested;

- (ix) recommending policies, plans and procedures for the organization, construction, acquisition, operation and maintenance of the water supply system of the Commission;
- (x) purchasing materials and services and approving change orders according to administrative rules and procedures established in Article VIII hereof;
- (xi) overseeing the preparation of all checks and requiring and overseeing the maintenance of a check register;
- (xii) requiring and overseeing the preparation of a monthly statement of receipts and disbursements;
- (xiii) requiring and overseeing the reconciliation of bank statements on a monthly basis;
- (xiv) overseeing the preparation of an annual audit;
- (xv) preparing an annual budget;
- (xvi) requiring and overseeing the maintenance of a central file of all correspondence and other documents and materials pertaining to the affairs of the Commission;
- (xvii) preparing and presenting to the Commission for consideration and approval such administrative rules, procedures and orders as may be deemed necessary and appropriate;

- (xviii) representing the Commission before conferences, professional associations or relevant public hearings when requested by the Commission to do so;
- (xix) executing all contracts and other agreements and documents duly authorized to be signed on behalf of the Commission, except such contracts and other agreements and documents as may be required to be signed by the Chairman or some other officer of the Commission; and
- (xx) Assigning such duties as may properly be delegated to the Financial Administrator or other Administrative Staff.

Section 8 Financial Administrator:

- a. Appointment. The Financial Administrator shall be appointed by a majority affirmative vote of all the Commissioners, which majority must contain the votes of at least one-third (1/3) of the Commissioners appointed by the Chairman of the DuPage County Board and at least forty percent (40%) of the Commissioners appointed by the DuPage County mayors as provided in the Act, and with the advice and consent of the DuPage County Board. The Financial Administrator shall be appointed for an indefinite term and solely on the basis of demonstrated financial background and experience to monitor and report on Commission financial matters and budgeting with special weight given to actual experience in or knowledge of acceptable practice relating to the duties of the position

as hereinafter set forth. The Financial Administrator shall be hired by and report to the General Manager. The Financial Administrator shall serve at the pleasure of the Commission, and may be removed without cause by the General Manager. The action of the General Manager in removing the Financial Administrator shall be final.

b. Duties. The Financial Administrator shall be the Finance Director referred to in the Act and the chief administrative financial officer of the Commission. The Financial Administrator shall be responsible for the efficient administration of the Commission's financial activities including, without limitation, financial reporting, investments, budgeting, insurance, purchasing, and human resources. The Financial Administrator shall:

- (i) perform or cause to be performed those duties prescribed by law or by the Commission including, without limitation, those duties prescribed by the Act to be performed by the Finance Director;
- (ii) perform or cause to be performed those duties assigned by the General Manager;
- (iii) establish and then comply with the established financial procedures and practices, including the deposit of funds, the making of disbursements, the maintenance of a check register, the reconciliation of bank statements, the segregation of financial duties, the

restriction of access to the established accounting and general ledger systems and the management of the annual audit;

- (iv) document and comply with standard accounting policies, procedures and controls to ensure accurate reporting to the Finance Committee and the Board of Commissioners and to identify improper or unnecessary expenditures, budgetary errors or accounting irregularities;
- (v) review and approve manual journal entries and supporting documentation;
- (vi) review and approve monthly bank reconciliations and general account reconciliations;
- (vii) report to the General Manager, the Treasurer, the Finance Committee and the Board of Commissioners any improper or unnecessary expenditures, budgetary errors or accounting irregularities;
- (viii) provide to the Finance Committee and the Board of Commissioners monthly reports regarding the Commission's cash and investment position, including whether the Commission has sufficient cash and investments to pay its debt service, operating expenses and capital expenditures and to maintain required reserve levels, the required funding levels for restricted

funds, the unrestricted cash and investment balances with comparisons to unrestricted reserves, and the type and performance of the Commission's investments and whether those investments are in compliance with the Commission's investment policies;

- (ix) provide to the Finance Committee and the Board of Commissioners detailed information concerning the Commission's operating performance, including the budgeted and actual monthly amounts for water sales, water costs and other operating expenses;
- (x) closely monitor and provide to the Finance Committee and the Board of Commissioners detailed information concerning the progress of construction and other capital projects, including whether the percentage of completion and costs incurred are timely;
- (xi) provide monthly to the Treasurer and the Finance Committee monthly bank reconciliations and general account reconciliations and provide full and timely reports documenting any GAAP analysis or communications with GASB;
- (xii) restrict access to established accounting systems and general ledger systems and segregate the financial duties performed by Administrative Staff so that no

- single person has sole access and control over the accounting system or the general ledger system;
- (xiii) monitor and facilitate the acquisition of fidelity bonds, liability and property insurance and group health coverage;
  - (xiv) report, and monitor processing of, liability claims;
  - (xv) verify that requisitions, purchase orders and payment requests are in line with budget and contract approvals;  
and
  - (xvi) Administer Commission personnel programs and practices particularly as they relate to labor relations, employee benefits, retirement plan administration and pension and insurance benefits.

Section 9 Vacancy: In the event of a vacancy in office, for whatever reason, such vacancy shall be filled according to the same procedure used for the initial election or appointment.

#### ARTICLE IV

##### ADMINISTRATIVE STAFF OF THE COMMISSION

Section 1 Administrative Staff. The Administrative Staff shall consist of the General Manager, the Financial Administrator and such other supervisory, administrative and operating personnel as may from time to time be employed or retained by the Commission. The Administrative Staff shall be under the direction of the General Manager.

Section 2: Absence or Inability; Incapacity. In the event of the General Manager's temporary absence or inability to act, he or she may designate such Commission officers or employees as shall be authorized to act on his or her behalf. In the event that the Chairman determines that the General Manager is incapable of performing his or her duties, the Chairman may, with the advice and consent of the other Commissioners, appoint a qualified person on a temporary basis to perform the duties of the General Manager during such incapacity.

## ARTICLE V

### LEGAL COUNSEL

Section 1: Appointment or Engagement. Except as otherwise provided in the Subsection 3(b) of Article XI below regarding the Ethics Officer, legal counsel shall be appointed or engaged by a majority affirmative vote of all the Commissioners, which majority must contain the votes of at least one-third (1/3) of the Commissioners appointed by the Chairman of the DuPage County Board and at least forty percent (40%) of the Commissioners appointed by the DuPage County mayors as provided in the Act. Legal counsel shall be appointed or engaged for an indefinite term and solely on the basis of his or her professional qualifications with special weight given to actual experience in or knowledge of acceptable practice relating to the duties of the position or assignment. Legal counsel shall serve at the pleasure of the Commission, and may be removed without cause by the Chairman with the advice and consent of the other Commissioners or by the General Manager.

Section 2 Duties. The General Counsel, if an outside legal firm is appointed to perform such duties, or the Staff Attorney, if an employee of the Commission is on staff to perform such duties, shall be the chief legal advisor to the Board of Commissioners and

the General Manager. The duties of the chief legal advisor shall include, but are not necessarily limited to, the following:

- (i) performing those duties prescribed by law or by the Commission;
- (ii) providing advice to the Board of Commissioners and the Administrative Staff in connection with administration of water supply and water purchase and sale contracts, construction of the water supply system, property and right-of-way acquisition, insurance, litigation and other legal matters;
- (iii) preparing and drafting ordinances, resolutions, construction contracts and other legal documents, and rendering legal opinions when requested by the Chairman, the Board of Commissioners or the General Manager on all matters concerning the interests of the Commission;
- (iv) attending all Commission meetings, and any committee or other meeting when required;
- (v) making reports from time to time and otherwise performing such other duties or special services which the Board of Commissioners or General Manager may require; and
- (vi) directing litigation and representing the Commission in all legal matters or, if requested or approved by the

Commission, recommending the retention of Special Counsel to represent the Commission or assist the General Counsel or Staff Attorney in certain matters. The General Counsel or Staff Attorney shall oversee and remain responsible for matters handled by Special Counsel.

## ARTICLE VI

### MEETINGS

Section 1 Regular Meetings: Regular meeting dates of the Commission shall be established in accordance with the provisions of the Illinois Open Meetings Act, 5 ILCS 120/1 *et seq.* Commissioners may participate, in whole or in part, in regular meetings of the Board of Commissioners by audio or video conference, and shall be counted for purposes of voting for so long as they participate and vote, subject to the following terms and conditions:

- a. All Commissioners participating in a meeting by audio or video conference shall be able to hear concurrently the substance of the meeting, and those Commissioners physically present at the designated meeting site, as well as the media and public in attendance at the designated meeting site, shall be able to hear concurrently the Commissioners participating by audio or video conference.
- b. A quorum of the Board of Commissioners shall be physically present at the designated meeting site and not more than one Commissioner

shall participate in a meeting by audio or video conference from the same remote location.

- c. The Chairman or the Vice-Chairman shall be physically present at the designated meeting site or, if neither the Chairman nor the Vice-Chairman is participating in the meeting, then the Chairman Pro-Tem shall be physically present at the designated meeting site. If the Chairman is participating in the meeting by audio or video conference, then the Chairman shall vacate the chair and the Vice-Chairman shall perform the duties of the Chairman at the meeting.
- d. Any Commissioner participating in a meeting by audio or video conference shall be unable to physically attend the meeting because of (i) personal illness or disability; (ii) a family or other emergency; or (iii) employment purposes or Commission business.
- e. Any Commissioner participating in a meeting by audio or video conference shall have notified the recording secretary or Clerk of his or her intention to participate by audio or video conference in advance of the meeting unless advance notice is impractical.
- f. Any Commissioner participating in a meeting by audio or video conference shall announce his or her name, and shall be recognized by the presiding officer, before speaking.
- g. Any voice vote that includes Commissioners participating by audio or video conference and in which a “no” or “nay” vote is cast shall be ineffective, and the official vote on the passage of the action under consideration shall be taken by a roll call vote.

(Last amended on October 12, 2006 by Ordinance No. O-11-06).

Section 2: Order of Business at Regular Meeting. The Order of Business at all Regular Meetings shall be as follows:

- a. Roll Call
- b. Public Comments
- c. Approval of Minutes
- d. Treasurer's Report
- e. Committee Reports and Action Items
- f. Chairman's Report
- g. Old Business
- h. New Business
- i. Accounts Payable
- j. Executive Session
- k. Adjournment

The Chairman may for good cause suspend said order at any particular Commission meeting. Business conducted at any regular meeting may, with the consent of a majority of the Commissioners present, include the discussion of items not specified in the agenda except as otherwise prohibited by applicable law. Public comments shall be limited to a period of 30 minutes and to three minutes per person. Persons shall be recognized in order of sign in on the Public Comment Sign In Sheet at the meeting or, if none, in the order determined by the Chairman or other presiding officer. (Last amended on October 12, 2006 by Ordinance No. O-11-06).

Section 3 Special Meetings. Special meetings may be called by the Chairman or the General Manager upon his or her own initiative and shall be called at the request of

any four Commissioners. Notice of any special meeting shall be given in accordance with the provisions of the Illinois Open Meetings Act. Commissioners may participate, in whole or in part, in special meetings of the Board of Commissioners by audio or video conference, and shall be counted for purposes of voting for so long as they participate and vote, subject to the same terms and conditions as are set forth in Section 1 above for regular meetings. (Last amended on October 12, 2006 by Ordinance No. O-11-06).

Section 4: Order of Business at Special Meetings. The Order of Business at all special meetings shall be as follows:

- a. Roll Call
- b. Items for Consideration Set Forth in Notice of Special Meeting
- c. Adjournment

Section 5 Emergency Meetings. Emergency meetings may be called by the Chairman upon his or her own initiative or at the request of any Commissioner or the General Manager in the event of bona fide emergencies. Notice of an emergency meeting shall be given in accordance with the provisions of the Illinois Open Meetings Act. Business at an emergency meeting may be conducted without reference to a prepared agenda. Commissioners may participate, in whole or in part, in emergency meetings of the Board of Commissioners by audio or video conference, and shall be counted for purposes of voting for so long as they participate and vote, subject to the same terms and conditions as are set forth in Section 1 above for regular meetings. (Last amended on October 12, 2006 by Ordinance No. O-11-06).

Section 6: Quorum. A quorum shall consist of a majority of the Commissioners in office.

Section 7    Vote Requirements.

- a.     Generally. Subject to the requirements set forth in Subsection 7(b) below and any other provision of these By-Laws that states a more specific vote requirement, the concurrence of a majority of the appointed Commissioners shall be necessary for the passage of any ordinance or the incurring of any debt or financial obligation or the approval of any payment. All other action of the Commission shall require the concurrence of a majority of those Commissioners present, provided there is a quorum. Every Commissioner who shall be present when a question is stated from the Chair shall vote thereon unless excused by the Chair or unless he or she is directly interested in the question. Votes of “abstain,” “pass,” or “present,” or a refusal to vote when present, shall be counted as concurring in the vote of the majority of those who did vote on the question.
- b.     Specific Vote Required. A majority affirmative vote of all the Commissioners, which majority must contain the votes of at least one-third (1/3) of the Commissioners appointed by the Chairman of the DuPage County Board and at least forty percent (40%) of the Commissioners appointed by the groups of mayors as provided for in the Act, shall be necessary for the adoption of any motion, resolution or ordinance regarding the following items:
- (i)     approval of individual contracts, or a series of contracts related to a single Project (as that term is defined in the Water Purchase and Sale Contract between the

Commission and its Charter Customers), in an amount in excess of \$100,000.00;

- (ii) setting of rates for the sale of Lake Michigan water to the Commission's Charter Customers;
- (iii) borrowing of funds;
- (iv) exercise of eminent domain powers;
- (v) employment of managerial and professional personnel, either as employees or consultants;
- (vi) amendment of the Chicago Water Supply Contract; and
- (vii) Amendment of this Ordinance made in accordance with Section 2 of Article XII herein.

c. Omnibus Vote. At any meeting, the Commissioners may by unanimous consent take a single vote by yeas and nays on the several questions of passage of any two or more designated ordinances, orders, resolutions or motions placed together for voting purposes in a single group, which single vote shall be entered separately in the minutes under the designation "omnibus vote," and in such event the clerk may enter the words "omnibus vote" in the minutes in each case in lieu of entering the names of the members of the Board of Commissioners voting "yea" and those voting "nay" on the passage of each of the designated ordinances, orders, resolutions and motions included in such omnibus group. The taking of such single or omnibus vote and such entries of the words "omnibus vote" in the minutes shall be considered of like effect as if

the vote in each case had been taken separately on the question of the passage of each ordinance, order, resolution and motion included in such omnibus group, and separately recorded in the minutes.

Section 8 Rules of Order. The rules of parliamentary procedure contained in Robert's Rules of Order, as revised from time to time, shall govern all Commission meetings to the extent that they are applicable and not inconsistent with these By-Laws or other special rules, if any, of the Commission.

Section 9 Public Comment: Public comments shall be limited to a period of 30 minutes and to three minutes per person. Persons shall be recognized in order of sign in on the Public Comment Sign In Sheet at the meeting or, if none, in the order determined by the Chairman or other presiding officer. (Last amended on October 12, 2006 by motion adopting Ordinance No. O-11-06).

Section 10 Closed Session Minutes and Verbatim Record. The "Closed Session Minutes and Verbatim Record Policy" attached to these By-Laws as Exhibit A govern the creation, maintenance, storage, release and destruction of closed meeting minutes and verbatim records of all public bodies of the Commission that are subject to the Illinois Open Meetings Act. (Last amended on February 12, 2004 by Ordinance No. O-2-04; Exhibit A last amended on October 12, 2006 by Ordinance No. O-11-06).

## ARTICLE VII

### COMMITTEES AND TASK FORCES

Section 1 Purpose of Committees. The Board of Commissioners has determined that the committee structure may in many situations be the most efficient and productive way for the Commissioners to carry out their responsibilities. The primary responsibilities of all committees shall be suggesting policy, reviewing and investigating

Commission matters, and making recommendations to the Board of Commissioners. The committee structure is established so that more thought and time may be given to Commission matters by delegating review and investigative functions to a portion of its members. Committees, therefore, are not legislative bodies but reviewing and investigative bodies; committee actions shall constitute only suggestions or recommendations to the Board of Commissioners rather than instructions to either the Board of Commissioners or Administrative Staff.

Section 2 Committees. The Commission has established an Administration Committee which is responsible for reviewing and investigating, and suggesting policy and making recommendations concerning, organizational matters, purchase of service agreements and internal affairs of the Commission, including personnel and legal affairs; an Engineering and Construction Committee which is responsible for reviewing and investigating, and suggesting policy and making recommendations concerning, the design, construction, operation and improvement of Commission facilities; and a Finance Committee which is responsible for supervising the Administrative Staff's handling of, reviewing and investigating, and suggesting policy and making recommendations concerning, the Commission's financial affairs and budgeting. The Commission may establish other standing or special committees as it may deem necessary, the duties of which shall be those specified at the time such other standing or special committee is established. The Chairman shall appoint all committees and committee chairmen with the advice and consent of the other Commissioners. Committee members may participate, in whole or in part, in regular, special and emergency committee meetings by audio or video conference, and shall be counted for purposes of voting for so long as they participate and vote, subject to the same terms and conditions as are set forth in Section 1 of Article

VI above for regular meetings, or Section 3 of Article VI above for special meetings, or Section 5 of Article VI above for emergency meetings of the Board of Commissioners, as the case may be. The Commission may consolidate, abolish or change the duties of any one or more of its committees so long as at all times required by the Act there exists a Finance Committee performing those duties prescribed by law, including conducting monthly meetings to supervise the handling of financial matters and budgeting by Administrative Staff.

(Last amended on February 12, 2004 by Ordinance No. O-2-04).

Section 3 Chairman as Committee Member: The Chairman shall be an ex-officio member of all committees and shall be entitled to vote on committee matters.

Section 4 Purpose of Task Forces: A task force structure may in some situations be the most efficient and productive way for the Commission to carry out its responsibilities. The task force structure is especially suited to the review and investigation of matters falling outside the expertise of the Commissioners individually and collectively, and requiring more intensive study than the Commissioners can devote to them along with other matters.

Section 5 Task Forces. The Commission may establish such task forces as it may deem necessary. The Chairman shall appoint all task force members with the advice and consent of the other Commissioners. Task force membership may include, but need not be limited to, Commissioners. Task force members may participate, in whole or in part, in regular, special and emergency task force meetings by audio or video conference, and shall be counted for purposes of voting for so long as they participate and vote, subject to the same terms and conditions as are set forth in Section 1 of Article VI above for regular meetings, or Section 3 of Article VI above for special meetings, or

Section 5 of Article VI above for emergency meetings of the Board of Commissioners, as the case may be. (Last amended on October 12, 2006 by Ordinance No. O-11-06).

## ARTICLE VIII

### PURCHASING PROCEDURES

Section 1 Coverage: These procedures shall cover all contracts for supplies, material or work being purchased by the Commission except as herein set forth.

Section 2 Definitions. For the purpose of these procedures, “supplies, material or work” shall mean and include, except as hereinafter limited, all work, labor or services; other contracts for services; supplies, equipment or other materials; and the rental, repair or maintenance of equipment, machinery and other personal property. The term “work” shall not include personal services or services rendered in a professional capacity such as accounting, engineering or legal services.

Section 3 Minor Purchases. The General Manager shall have the authority to purchase on behalf of the Commission supplies, material or work requiring an expenditure of the sum provided for in 65 ILCS 5/8-9-1 or less pursuant to such procedures as he or she deems calculated to insure the best interests of the Commission, without a specific solicitation of quotations or advertisement for bids; provided, however, that this Section 3 shall not apply to contracts for construction of the Commission’s water supply system, which shall be governed by Section 5 below.

Section 4 Purchases Requiring Quotations. All purchases of supplies, material or work included in the Annual Management Budget and requiring expenditure in excess of the sum provided for in 65 ILCS 5/8-9-1 shall be made only after the solicitation of at least two written quotations. All such quotations shall be submitted sealed to the Commission and shall be opened in public at a date and time set by the General

Manager. A tabulation of all quotations received shall be presented to the Board of Commissioners. In cases where only one quotation is received, there is only a single source for the supplies, materials or work or the purchase was not included in the Annual Management Budget, the expenditure may only be authorized by the Board of Commissioners. This Section 4 shall not apply to contracts for construction of the Commission's water supply system, which shall be governed by Section 5 below. The General Manager shall keep a record of all such purchases and the quotations submitted pursuant to the solicitation therefor.

Section 5 Water Supply System Contracts. All contracts for the construction of the Commission's water supply system shall be entered into only after advertising for bids in the manner required by the Water Commission Statute.

Section 6 Bid Deposits. When deemed necessary by the General Manager or Board of Commissioners, bid deposits shall be required.

Section 7 Specifications. The following shall apply to specifications.

- a. Specifications shall be available to all bidders;
- b. Specifications shall be general in nature and not so specific as to limit a bidder to a specific brand; and
- c. The Commission shall reserve the right to make clarifications, corrections or changes in specifications at any time prior to the time bids are opened so long as all bidders or prospective bidders are informed of said clarifications, corrections or changes in the specifications.

Section 8 Bid Opening Procedure.

- a. Sealed. Bids shall be submitted sealed to the Commission and shall be identified as bids on the envelopes. The date and time the bid was received shall be recorded on the envelope of the bid.
- b. Opening. Bids shall be opened in public at the time and place stated in the public notices.
- c. Tabulation. A tabulation of all bids received shall be posted for public inspection.

Section 9 Acceptance or Rejection of Bids: Except when expressly and specifically limited by the terms of a particular bid solicitation, the Commission shall have the authority to accept the bid which, in its judgment, is the best bid and most favorable to the interests of the Commission and the public; to reject the low bid; to accept any item of any bid; to reject any and all bids; to accept and incorporate corrections or clarifications following bid opening when to do so would not, in the Commission's opinion, prejudice the bidding process or create any improper advantage to bidders; and to waive irregularities and informalities in any bid submitted or in the bidding process.

Section 10 Bidders in Default to Commission. The Commission shall not accept the bid of a contractor who is or has been in default on a contract with the Commission or in the payment of monies due to the Commission.

Section 11 Award of Contract:

- a. Authority in Board of Commissioners. The Board of Commissioners shall have the authority to award all contracts for the construction of the Commission's water supply system.

- b. Awards. Contracts shall be awarded to the bidder whose proposal is found to be in the best interests of the Commission. In determining the bidder who is to receive the award, the Commission shall consider the following factors in addition to price:
- (i) The ability, capacity and skill of the bidder to perform the contract or provide the service required;
  - (ii) Whether the bidder has the requisite facilities, plant, organization and staffing to enable the bidder to perform the contract or provide the service successfully and promptly, within the time specified, without delay or interference;
  - (iii) The character, integrity, reputation, judgment, experience and efficiency of the bidder;
  - (iv) The quality of the bidder's performance of previous contracts or services;
  - (v) The previous and existing compliance by the bidder with the laws and ordinances relating to the contract or services;
  - (vi) The sufficiency of the financial resources and ability of the bidder to perform the contract or to provide the services;
  - (vii) The quality, availability, adaptability and capabilities of the supplies, material or work to the particular use required;

- (viii) The ability of the bidder to provide future maintenance and service for the subject of the contract, if applicable.
  - (ix) Any other factor that the Commission may legally consider in determining the proposal that is in the best interests of the Commission.
- c. Subsequent Awards. Contracts awarded to a bidder who fails to comply with all conditions precedent to formal execution of the contract agreement may be annulled. Upon annulment of an award, the Commission may award the contract to any other bidder whose proposal is found to be in the best interests of the Commission in accordance with Subsection 11(b) above, or the Commission may advertise anew for bids.

Section 12 Single Bids. The Board of Commissioners desires competitive bids; however, where there is only one bid, that fact alone shall not prevent the Commission from accepting that bid.

Section 13 Performance and Payment Bonds: The Commission may require a performance bond before entering a contract in such amount as it shall find reasonably necessary to protect the best interests of the Commission. The Commission shall require a payment bond in such amount as it shall find reasonably necessary to secure payment for material used and labor performed in connection with a public work.

Section 14 Change Orders. All contract change orders shall be considered and approved or disapproved by the Commission during the regular course of its conduct of business except in the following circumstances.

- a. By General Manager. The General Manager shall have the authority to approve any contract change order:
- (i) based entirely upon approved unit prices; or
  - (ii) In an amount not in excess of \$100,000 when in the judgment of the General Manager and the Commission's consulting engineer such change order requires immediate approval to avoid the incurring of unnecessary and excessive costs by the Commission.

A full written description and explanation of any change order so approved by the General Manager shall be distributed to the Board of Commissioners as soon as possible following its approval.

- b. By Commission at Special or Emergency Meeting. When in the judgment of the General Manager a change order in an amount in excess of \$100,000 requires a more immediate approval than the Commission's regular meeting schedule would permit in order to avoid the incurring of unnecessary and excessive costs by the Commission, or when, in any other case, in the judgment of the General Manager a change order requires the immediate attention of the Commission, the General Manager may call a special or emergency meeting of the Commission for the consideration of such change order.

Section 15 Prohibition Against Subdivision: No contract or change order shall be subdivided to avoid the requirements of these By-Laws. This prohibition shall not prevent

the repetitive purchase of supplies, material or work which is purchased over a period of time as needed.

Section 16 Emergencies. In case of an apparent emergency which requires immediate purchase of supplies, material or work to protect persons or property, the General Manager shall be authorized to secure any supplies, material or work necessary to address such emergency by whatever means deemed necessary without regard to the procedures otherwise required under these By-Laws. A full written description and explanation of any such emergency purchase shall be distributed to the Board of Commissioners as soon as possible following the emergency.

Section 17 Bid Item Must Be Budgeted. Contracts or purchase orders cannot be executed and are invalid and void unless the amounts due thereunder have been budgeted by the Board of Commissioners.

Section 18 Cooperative Purchasing Arrangements: Nothing in this Article VIII shall be interpreted to prohibit the Commission from participating with other public bodies, associations or agencies, or with other units of government, in any cooperative purchasing arrangements subject to bidding or other processes that assure the protection of the best interests of the Commission. Supplies, materials or work purchased through such arrangement shall be exempted from the requirements of this Article.

## ARTICLE IX

### DISBURSEMENTS

Section 1 No Disbursement Without Authority. No funds, monies or other things of value in the hands of the Commission shall be paid out, disbursed or delivered except upon warrant, draft or order approved and signed as herein provided.

Section 2 Authorization: All disbursements in excess of \$20,000.00 shall be approved in advance by the Board of Commissioners except for payroll disbursements and disbursements for payroll-related taxes, contributions and payments. The General Manager is authorized to incur and pay contingency expenditures up to and including \$20,000.00 without the prior approval of the Board of Commissioners. (Last amended on April 11, 2011 by Ordinance No. O-7-11).

Section 3 Required Signatures. All checks shall be manually or electronically signed by any two of the following: the Chairman, the Treasurer, the Finance Committee Chairman, the General Manager, the Financial Administrator or the Staff Attorney. (Last amended on February 10, 2005 by Ordinance No. O-1-05).

Section 4 Designation of Fund and Payee: For each check issued by the Commission, a record shall be kept which specifies the particular fund or appropriation to which it is chargeable and the person or other entity to whom it is payable.

## ARTICLE X

### BUDGET AND AUDIT

Section 1 Fiscal Year. The fiscal year of the Commission shall begin May 1 and shall end April 30 of the following year.

Section 2 Tentative Management Budget: In accordance with the Commission's obligations under the Water Purchase and Sale Contract dated as of June 11, 1986 between the Commission and Charter Customers (the "Customer Contract") and the budget covenant contained in Ordinance No. O-1-87 entitled an Ordinance of the DuPage Water Commission, Counties of DuPage, Cook and Will, Illinois, Authorizing the Issuance and Sale of Water Revenue Bonds and Providing The Terms of and Security for Repayment (the "Revenue Bond Ordinance"), the General Manager and Administrative

Staff shall prepare and submit to the Board of Commissioners and the Commission's Charter Customers a tentative Management Budget not less than 60 days prior to the beginning of the fiscal year. The tentative Management Budget shall contain in reasonable detail an estimate of (i) revenues of the Waterworks System and any other funds to be deposited in the Water Fund (as defined in the Revenue Bond Ordinance), (ii) Fixed Costs (as defined in the Customer Contract) to be payable by each Charter Customer in a stated aggregate dollar amount per month for each, and (iii) Operations and Maintenance Costs (as defined in the Customer Contract) in a stated price per 1000 gallons of water. The tentative Management Budget shall include estimated amounts to be deposited in each month of the fiscal year into the Water Fund and each of the accounts thereof and the requirements, if any, for the amounts estimated to be expended from such accounts. The tentative Management Budget shall also set forth sufficient detail with respect to such revenues, other funds, Operation and Maintenance Costs and other expenditures and such deposits as shall be necessary or appropriate so as to comply with the Water Supply Contract entered into as of the 19<sup>th</sup> day of March 1984 by and between the City of Chicago and the DuPage Water Commission. The Board of Commissioners shall hold at least one hearing on the tentative Management Budget ordinance prior to final action thereon, at which hearing the Charter Customers may be heard. The Commission shall give its Charter Customers not less than 21 days' notice of such hearing.

Section 3 Adoption of Management Budget: The Board of Commissioners shall approve and adopt the annual Management Budget on or before April 30 each year.

Section 4 Preliminary Combined Annual Budget and Appropriation Ordinance In Accordance with the Illinois Municipal Budget Law Act. The General Manager and

Administrative Staff shall prepare and submit to the Board of Commissioners a preliminary Combined Annual Budget and Appropriation Ordinance before or within the first quarter of each fiscal year. The preliminary Combined Annual Budget and Appropriation Ordinance shall contain a statement of cash on hand at the beginning of the fiscal year, an estimate of cash expected to be received during such fiscal year from all sources, an estimate of expenditures contemplated for such fiscal year, and a statement of estimated cash expected to be on hand at the end of such year. The Board of Commissioners shall hold at least one public hearing on the preliminary Combined Annual Budget and Appropriation Ordinance prior to final action thereon, in compliance with the Illinois Municipal Budget Law, 50 ILCS 330/1 *et seq.*

Section 5 Adoption of Combined Annual Budget and Appropriation Ordinance Pursuant to the Illinois Municipal Budget Law Act: The Board of Commissioners shall approve and adopt the Combined Annual Budget and Appropriation Ordinance on or before July 31 each year.

Section 6 Audit: The Board of Commissioners shall provide for an annual audit to be made by an independent certified public accountant in accordance with the Illinois Governmental Account Audit Act, 50 ILCS 310/0.01 *et seq.* The Commission's Finance Committee shall from time to time interview and recommend to the Board of Commissioners independent certified public accountants to perform the annual audit. (Last amended on March 11, 1993 by Ordinance No. O-1-93).

## ARTICLE XI

### CONDUCT OF THE COMMISSIONERS, OFFICERS AND EMPLOYEES OF THE COMMISSION

#### Section 1 Conflict of Interest:

a. Neither the Commissioners, nor any of their employees, while representing or employed by the Commission, shall engage in any act that is **in** conflict with the performance of his or her official duties. A conflict of interest exists whenever official action could result in a personal advantage or disadvantage to the interested Commissioner or employee, as the case may be, including, but not limited to the following:

(i) receives or has any financial interests in any purchase, sale or lease to or by the Commission where that purchase, sale or lease was obtained with prior knowledge that the Commission intended to take such action;

(ii) represents, or whose firm represents, any person who would receive direct financial benefit as a result of the official action under consideration;

(iii) accepts or seeks any employment, travel, compensation or gift from any person doing business or seeking to do business with the Commission for which the employee has responsibility;

(iv) receives or accepts a gift, compensation, or travel that was given for the purpose of obtaining special consideration or to influence Commission action where a reasonable and prudent person would believe that the purpose was to obtain special consideration or to influence Commission action;

(v) violates any provision of the Public Officer Prohibited Activities Act. (50 ILCS 105/0.1, et seq.)

b. Any Commissioner or any employee of the Commission who has a conflict situation should abstain from discussion and shall not vote on any contract or in the case of an employee, obtain from participation in a discussion, evaluation or recommendation related to, the person or business involved in the conflict.

c. Any employee who becomes aware that he or she may have a conflict of interest that arises in the course of his or her official duties shall notify, in writing, the General Manager. The disposition of the potential conflict shall be determined by the General Manager or, where he deems appropriate by the Ethics Officer. A Commissioner, officer or employee shall not participate in deliberations where they have a conflict of interest as defined under these By-Laws and must not participate in the decision making in any manner.

Section 2 Interest in Contracts: No Commissioner or employee of the Commission shall be interested directly or indirectly in any contract or job of work or materials, or the profits thereof, or services to be performed for or by the Commission. The Commissioners and all employees and appointees of the Commission shall act and conduct themselves in such a manner that they do not violate any statute, ordinance, rule or regulation of the Commission, the State of Illinois, or the federal government dealing with interest in contracts, jobs, work or materials, or the profits thereof, or services to be performed for or by the Commission.

Section 3 Gift Ban and Prohibited Political Activities. (Last Amended on May 13, 2004 by Ordinance No. O-11-04).

a. Definitions: Whenever the following words or terms are used in this Section 3, they shall have the meanings ascribed to them below:

APPOINTEE or APPOINTED OFFICIAL: Any person appointed by the Commission, with or without the consent of the Commissioners, to a position in or with the Commission regardless of whether the position is compensated.

BUSINESS OR ENTITY: The actual organization or person to which a Commission contract has been awarded or contract is to be awarded and includes any of the business's principals, family members of the business's principals and any other legal entities in which those principals or family members have a controlling interest or have control over the disbursement of funds of the business.

CAMPAIGN FOR ELECTIVE OFFICE: Any activity in furtherance of an effort to influence the selection, nomination, election or appointment of any individual to any federal, State or local public office or office in a political organization, or the selection, nomination or election of Presidential or Vice-Presidential electors, but does not include activities (i) relating to the support or opposition of any executive, legislative or administrative action,<sup>1</sup> (ii) relating to collective bargaining,<sup>2</sup> or (iii) that are otherwise in furtherance of the person's official duties.

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<sup>1</sup> As those terms are defined in Section 2 of the Lobbyist Registration Act, 25 ILCS 170/2.

<sup>2</sup> As defined in Section 3 of the Illinois Public Labor Relations Act, 5 ILCS 315/3.

CANDIDATE: Any person who has filed nominating papers or petitions for nomination or election to an elected office, or who has been appointed to fill a vacancy in nomination, and who remains eligible for placement on the ballot at either a general primary election or general election.

CHAIRMAN: The Chairman of the DuPage County Board.

COLLECTIVE BARGAINING: Has the same meaning as that term is defined in Section 3 of the Illinois Public Labor Relations Act (5 ILCS 315/3).

COMPENSATED TIME: With respect to an employee, any time worked by or credited to an employee that counts toward any minimum work time requirement imposed as a condition of his or her employment but, for purposes of this Section 3, does not include any designated holidays, vacation periods, personal time, compensatory time off or any period when the employee is on a leave of absence. With respect to officers or employees whose hours are not fixed, compensated time includes any period of time when the officer or employee is on the premises under the control of the employer and any other time when the officer or employee is executing his or her official duties, regardless of location.

COMPENSATORY TIME OFF: Any authorized time off earned by or awarded to an employee to compensate in whole or in part for time

worked in excess of the minimum work time required of that employee as a condition of his or her employment.

CONTRIBUTION: Has the same meaning as the term is defined in Section 9-1.4 of the Election Code (10ILCS 5/9-1.4).

DUPAGE COUNTY: The County of DuPage, Illinois.

DUPAGE COUNTY ETHICS COMMISSION or ETHICS COMMISSION: The Ethics Commission created pursuant to the DuPage County Ethics Ordinance.

DUPAGE COUNTY ETHICS ORDINANCE or ETHICS ORDINANCE: DuPage County Ordinance OFI-003C-04 amending the Code of DuPage County, Chapter 2. Administration. Article VII Ordinance.

EMPLOYEE: All full time, part time, temporary, and contractual employees appointed and elected officials of the Commission but does not include an independent contractor. "Employee" includes current employees and any person who was employed at the time of the conduct which is the subject of the complaint filed with the Ethics Commission in conformance with the provisions of Section 2-410 of Ethics Ordinance.

ETHICS COMMISSION: The Commission appointed to and performing the duties and functions of the position of Ethics Commission under the Ethics Ordinance.

ETHICS OFFICER: The person appointed to and performing the duties and functions of the position of Ethics Officer under the Ethics Ordinance.

FAMILY MEMBER or RELATIVE: Those people related to the officer or employee as father, mother, son, daughter, brother, sister, uncle, aunt, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, and stepsister.

GIFT: Any gratuity, discount, entertainment, hospitality, loan, forbearance or other tangible or intangible item having a fair cash market value including, but not limited to, cash, food and drink, and honoraria for speaking engagements related to or attributable to government employment or the official position of an office or employee.

INVESTIGATOR GENERAL: The person appointed to and performing the duties and functions of the position of Investigator general under the Ethics Ordinance

INTRA-OFFICE GIFT: Any gift given to an officer or employee of the Commission from another officer or employee of the Commission.

INTER-OFFICE GIFT: Any gift given to an officer or employee of the Commission from a member of the Illinois General Assembly; or from the Governor, the Lieutenant Governor, the Attorney General, the Secretary of State, the Controller, the Treasurer or the Auditor General of the State of Illinois; or from a member, officer, appointee or employee of any State Agency as defined in the State Officials and Employees Ethics Act,<sup>3</sup> or of any federal agency, or of any unit of local government or school district.

LEAVE OF ABSENCE: Any period during which an employee does not receive (i) compensation for employment, (ii) service credit towards pension benefits, and (iii) health insurance benefits paid for by the Commission.

MARKET VALUE: The price that a gift would bring for tangible or intangible assets of like type, quality and quantity in the local market at the time of acquisition.

OFFICER: All appointed and elected officials of the Commission, regardless of whether the official is compensated.

POLITICAL: Any activity in support of or in connection with any campaign for elective office or any political organization, but does not include activities (i) relating to the support or opposition of any executive, legislative or administrative action, (ii) relating to collective

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<sup>3</sup> 5 ILCS 430/1-1 *et seq.*

bargaining, or (iii) that are otherwise in furtherance of the person's official duties.

**POLITICAL ORGANIZATION:** A party, committee, association, fund or other organization (whether or not incorporated) that is required to file a statement of organization with the State Board of Elections or a county clerk under Section 9-3 of the Election Code,<sup>4</sup> but only with regard to those activities that require filing with the State Board of Elections or a county clerk.

**PROHIBITED POLITICAL ACTIVITY:**

1. Preparing for, organizing, or participating in any political meeting, political rally, political demonstration or other political event.
2. Soliciting contributions, including but not limited to the purchase of, selling, distributing or receiving payment for tickets for any political fundraiser, political meeting or other political event.
3. Soliciting, planning the solicitation of, or preparing any document or report regarding any thing of value intended as a campaign contribution.
4. Planning, conducting, or participating in a public opinion poll in connection with a campaign for elective office or

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<sup>4</sup> 10 ILCS 5/9-3.

on behalf of a political organization for political purposes or for or against any referendum question.

5. Surveying or gathering information from potential or actual voters in an election to determine probable vote outcome in connection with a campaign for elective office or on behalf of a political organization for political purposes or for or against any referendum question.
6. Assisting at the polls on Election Day on behalf of any political organization or candidate for elective office or for or against any referendum question.
7. Soliciting votes on behalf of a candidate for elective office or a political organization or for or against any referendum question or helping in an effort to get voters to the polls.
8. Initiating for circulation, preparing, circulating, reviewing or filing any petition on behalf of a candidate for elective office or for or against any referendum question.
9. Making contributions on behalf of any candidate for elective office in that capacity or in connection with a campaign for elective office.
10. Preparing or reviewing responses to candidate questionnaires in connection with a campaign for elective office or on behalf of a political organization for political purposes.

11. Distributing, preparing for distribution or mailing campaign literature, campaign signs or other campaign material on behalf of any candidate for elective office or for or against any referendum question.
12. Campaigning for any elective office or for or against any referendum question.
13. Managing or working on a campaign for elective office or for or against any referendum question.
14. Serving as a delegate, alternate or proxy to a political party convention.
15. Participating in any recount or challenge to the outcome of any election.

PROHIBITED SOURCE: Any person or entity who:

1. Is seeking official action by the Commission or by an officer or employee of the Commission;
2. does business or seeks to do business with the Commission or with an officer or employee of the Commission;
3. conducts activities regulated by the Commission or by an officer or employee of the Commission;
4. has interests that may be substantially affected by the performance or non-performance of the official duties of

the Commission or an officer or employee of the Commission;

5. is registered or required to be registered with the Secretary of State under the Lobbyist Registration Act, except that an entity does not become a prohibited source merely because a registered lobbyist is one of its members or serves on its board of directors; or
6. Is an agent of, a spouse of, or an immediate family member who is living with a "prohibited source."

b. Gifts:

- (i) Gifts Prohibited: Except as otherwise provided in Paragraph 3(b)ii below, no officer or employee, spouse of an officer or employee, or immediate family member living with an officer or employee, shall intentionally solicit or accept any gift from any prohibited source or in violation of any federal or State statute, rule or regulation. No prohibited source shall intentionally offer or make a gift that violates this Subsection 3(b).
- (ii) Exceptions: The restrictions set forth in Paragraph 3(b) above shall not apply to the following:
  - A. Opportunities, benefits and services that are available on the same conditions as for the general public; provided, however, that any rewards program maintained by a vendor doing

business with the Commission or an officer or employee of the Commission must benefit the Commission and not any officer or employee in their own right. (Last amended on July 10, 2008 by Ordinance No. O-7-08).

- B. Anything for which the officer or employee pays the fair cash market value or anything promptly disposed of as provided in Paragraph 3(b)iii below.
- C. A contribution, as defined in Article 9 of the Illinois Election Code,<sup>5</sup> that is lawfully made under that Code or under the State Officials and Employees Ethics Act, or activities associated with a fundraising event in support of a political organization or candidate.
- D. Educational materials and missions.
- E. Travel expenses for a meeting to discuss Commission business.
- F. A gift from a family member or relative of an officer or employee.
- G. Anything provided by an individual on the basis of a personal friendship unless the officer or employee has reason to believe that, under the

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<sup>5</sup> 10 ILCS 5/9-1 *et seq.*

circumstances, the gift was provided because of the official position or employment of the officer or employee and not because of the personal friendship. In determining whether a gift is provided on the basis of personal friendship, the officer or employee shall consider the circumstances under which the gift was offered, such as:

- (i) the history of the relationship between the individual giving the gift and the recipient of the gift, including any previous exchange of gifts between those individuals;
- (ii) whether to the actual knowledge of the officer or employee the individual who gave the gift personally paid for the gift or sought a tax deduction or business reimbursement for the gift; and
- (iii) Whether to the actual knowledge of the officer or employee the individual who gave the gift also at the same time gave the same or similar gifts to other officers or employees.

- H. Food or refreshments having a fair market value not exceeding \$25.00 per person in value on a single calendar day; provided that the food or refreshments are:
  - (i) Consumed on the premises from which they were purchased or prepared; or
  - (ii) Purchased ready to eat and delivered by any means.
- I. Food, refreshments, lodging, transportation and other benefits resulting from the outside business or employment activities (or outside activities that are not connected to the duties of the officer or employee as an office holder or employee) of the officer or employee, or the spouse of the officer or employee, if the benefits have not been offered or enhanced because of the official position or employment of the officer or employee and are customarily provided to others in similar circumstances.
- J. Intra-office and inter-office gifts.
- K. Bequests, inheritances, and other transfers at death.
- L. Any item or items from any one prohibited source during any calendar year having a

cumulative total fair market value of less than \$25.00.

- (iii) Disposition of Gifts: An officer or employee that is a recipient of a gift that is given in violation of this Section 3 may, at his or her discretion, return the item to the donor or give the item or an amount equal to its value to an appropriate charity that is exempt from income taxation under Section 501(c)3 of the Internal Revenue Code of 1986, as now or hereafter amended, renumbered, or succeeded.

c. Prohibited Political Activities:

- (i) No officer or employee shall intentionally perform any prohibited political activity during any compensated time. No officer or employee shall intentionally use any property or resources of the Commission in connection with any prohibited political activity.
- (ii) At no time shall any officer or employee intentionally require the services of any other officer or employee to perform any prohibited political activity (i) as part of that employee's duties, (ii) as a condition of employment, or (iii) during any compensated time off including but not limited to, vacation, holidays or personal time off.
- (iii) No officer or employee shall be required at any time to participate in any prohibited political activity in

consideration for that officer or employee being awarded any additional compensation or any benefit, whether in the form of a salary adjustment, bonus, compensatory time off, continued employment or otherwise, nor shall any officer or employee be awarded additional compensation or any benefit in consideration for the officer's or employee's participation in any prohibited political activity.

- (iv) An employee shall not be awarded any additional compensation or employee benefit, in

The form of salary adjustment, bonus, and compensatory time off, continued employment or otherwise awarded any additional compensation or employee benefit in consideration of voluntarily participating in any prohibited political activity.

- (v) No person either (i) in a position that is subject to recognized merit principles of public employment or (ii) in a position the salary for which is paid in whole or in part by federal funds and that is subject to the Federal Standards for a Merit System of Personnel Administration applicable to grant-in-aid programs shall be denied or deprived of employment or tenure solely because he or she is a member or an officer of a

political committee, of a political party or of a political organization or club.

- (i) vi. An employee shall not be denied or deprived of employment by a public entity or elected official subject to this Ordinance or tenure solely because he or she is a member or an officer of a political committee, or a political party or a political organization, or political club.
- vii. An employee shall not be required to (i) purchase tickets, solicit other to purchase tickets, sell, distribute or receive payment for political tickets for any political fundraiser or campaign fund for a specific candidate for political office or (ii) financially contribute to any political organization, political party, political rally, political fundraiser, political meeting or political event.
- viii. Political contributions shall not be intentionally solicited or accepted on County property by an employee or candidate for elective office. An inadvertent acceptance of a political contribution shall not be considered a violation of the Ordinance, if reasonable and timely action is taken to return the contribution to its source.
- ix. Nothing in this Section prohibits activities that are otherwise appropriate for an employee to engage in as a part of his or her official employment duties or

activities that are undertaken by an employee on a voluntary basis as permitted by law. .

Section 4: Ethics Officer, Ethics Commission, Investigator General: The Commission has amended these By-laws to be “substantially similar” to the provisions of the DuPage County Ethics Ordinance. Further, pursuant to the County Ordinance, the Commission had entered into an intergovernmental agreement with the County of DuPage. A copy of the intergovernmental agreement is attached to the By-laws as Exhibit “B” (the “Intergovernmental Agreement”). Pursuant to the Intergovernmental Agreement, the Commission has agreed that the administration and the enforcement of certain of the provisions of these By-laws related to the conduct of commissioners, officers and employees, including without limitation, the provisions related to interests in contracts, gifts and prohibited political activities are to be transferred to the County’s Ethics Officer, its Ethics Commission and its Investigator General all upon the terms and conditions contained in the Intergovernmental Agreement. The attached copy of the Intergovernmental Agreement (and the County’s Ethics Ordinance) contain a further delineation of the powers and duties of the County’s Ethics Officer, its Ethics Commission and its Investigator General and the filing of

complaints and conduct of hearings related to their separate functions.

Section 5 Employee Cooperation: Each employee shall be obligated to cooperate during the course of an investigation and to comply with requests for information from the Investigator General and Ethics Commission. Failure or refusal to comply with reasonable requests for information shall constitute a violation of these By-laws and may be considered by the Commission and General Manager as grounds for discipline consistent with the enforcement provisions of these By-Laws and the County's Ethics Ordinance.

Section 6 Whistle Blower Protection: Whenever any employee subject to these By-Laws reasonably believes evidence exists that another employee has perpetrated gross mismanagement, gross misuse or waste of public resources or funds; abuse of authority in connection with the administration of a public program or execution of a public contract; a violation of a federal, State, or local law, rule or regulation which is not merely of a technical or minimal nature; or a substantial and specific danger to the public health and safety exists, the employee shall bring this evidence to the immediate attention of the General Manager, Chairman of this Commission or its Legal Counsel.

A Commissioner, The Chairman, the General Manager, the Legal Counsel or any other official or other employee subject to these By-Laws shall not threaten to take or take any retaliation against an employee because of the employee's disclosure

of any alleged prohibited activity or because of an employee's refusal to comply with an illegal order. Any supervisor or other employee who retaliates against someone who has reported a violation in good faith is subject to but not limited to; a demotion, denial of promotion or merit increase, reassignment of responsibilities or disciplinary action not to exclude termination of employment.

An employee who reports a violation or concern, in good faith, shall not be subjected to retaliation, harassment, abuse, threats, and discrimination or any adverse employment consequences as a result of coming forward.

An employee who reports a violation or concern in good faith, on behalf of another employee, shall not be subjected to retaliation, harassment, abuse, threats, and discrimination or any adverse employment consequences as a result of coming forward.

This Section shall not apply to a complainant, or employee acting on behalf of a complainant, who knowingly makes a false report.

The Commission shall be authorized to develop formal procedures and forms for reporting complaints of improper or unethical behavior and will make this information reasonably available on the Commission's website.

Section 7 Collective Bargaining Restriction: Any recommendation for discipline or any action taken against any employee pursuant to these By-Laws by the Ethics Commission is subject to the provisions of any collective bargaining agreement that apply to the employee on the effective date of these By-Laws. Collective bargaining agreements that are executed after the effective date of these By-Laws shall to the greatest degree possible, include a provision which incorporates the substantive terms of these By-Laws as part of such agreement

Section 8 Contractor Disclosure: Prior to award, every contractor, union, or vendor who is seeking or who has obtained contracts or change orders to contracts or two or more individual contracts with the Commission which exceed the threshold amount set forth in this Section shall disclose to the Commission all political campaign contributions made within the last 12 months to any current Commissioner who otherwise holds an executive office that will in any way

participate in, or whose office will benefit from, the awarding of such contract or change order. Such disclosure shall be in writing, made to the General Manager or purchasing officer of the public entity, and updated annually during the term of a multi-year contract and prior to any change order or renewal which exceeds the threshold amount. For the purposes of this Section, "threshold amount" means an amount at or in excess of \$5,000 less than an amount set by the statute or Commission policy applicable to the public entity that would otherwise require procurement through a competitive bidding process. In the event that no statute imposes a competitive bidding requirement upon the public entity, the threshold amount shall be \$5,000 less than the amount set forth in Section 5-1022(a) of the Counties Code at the time of the procurement. The requirements of this Section apply to all procurements in excess of the threshold amount including those in which the public entity employed a procurement process other than competitive bidding to award the contract for such goods or services.

For purposes of this disclosure requirement, "contractor or vendor" shall include owners, officers, managers, lobbyists, agents, consultants, bond counsel and underwriters counsel, subcontractors and corporate entities under the control of the contracting person, and Political Action Committees to which the contracting person has made contributions.

All Contractors and Vendors who have obtained or are seeking contracts with the Commission must disclose the names and contact information of their lobbyists, agents and representatives and all individuals who are or will be having contact with Commission employees or officials in relation to the Contract or bid. This information disclosure must be updated when any changes to the information

should occur. Penalties for knowingly violating disclosure requirements will potentially result in immediate cancellation of the contract, and possible disbarment from future county contracts.

Section 9 Future Employment: No Commissioner official who adopts this Ordinance or nor any of their respective employees may accept or discuss an offer of future employment with any person or entity doing or seeking to do business with the Commission if either:

1. The Commission, the officer or employee knows or has reason to believe that the offer of employment was intended as compensation or reward or to influence official action pertaining to the business; or

2. The employee has decision making responsibility for a matter and that person or entity is offering employment to the decision maker; the exception will be if the employee has disclosed in writing to the General Manager that the employee intends to discuss future employment with this person or business. In this case, the employee shall be removed from any decision-making relative to this person or business; or

3. In the situation where the Commissioner or officer of the Commission or employee, is offered future employment by a person doing business with the Commission, the Commissioner, County Board Member or officer of the Commission or employee must disclose to the Ethics Officer, in writing, the

intention of discussing future employment. The Commissioner or officer of the Commission or employee shall withdraw from discussion and shall not evaluate, recommend or vote on any contract with this business or person.

Section 10 Former Employment Relationships: No employee, within one year of entering Commission employment, may participate in the decision making or awarding of a contract to a business or a person by whom they were formerly employed unless the employee, in writing, has disclosed the prior employment relationship to the General Manager before participating in any decision making regarding the former employer.

Prohibited Employment. No officer or employee of the Commission shall be employed in any other business, position or occupation (including self-employment) or have an ownership interest in any company that interferes with his/her official position or the full and proper performance of his/her duties, including, but not limited to:

- (a) Employment with any vendor, individual or entity that transacts any business with the Commission.
- (b) Any employment that interferes with or compromises the employee(s) position with the Commission to further their own personal interests.
- (c) Any employment that may be interpreted by the public to be in conflict with the employee's position with the Commission.

(d) Any employment that conflicts with the County's purpose, duties and interests.

(e) Any ownership interest in any company or entity which transacts or engages in any business with the Commission

Section 11 Use of Proprietary or Confidential Information:

1. No Commissioner or officer or employee of the Commission that has adopted this Ordinance, may intentionally disclose or use for his or her personal benefit or for the benefit of his or her family members any information acquired in the course of official duties, which is not available as a matter of public knowledge or public record. Violations of this Section shall constitute grounds for disciplinary action consistent with the enforcement provisions of these By-Laws including the exhibits attached hereto.

2. The identity of any individual providing information or reporting any possible or alleged misconduct to the Ethics Commission or Investigator General shall be kept confidential and may not be disclosed without the consent of that individual, unless the individual consents to disclosure of his or her name or disclosure of the individual's identity is otherwise required by law. The confidentiality granted by this section does not preclude the disclosure of the identity of a person in any capacity other than as the source of an allegation. Ethics Commissioners, Inspectors General, persons appearing before the Commission and their representatives shall not disclose information exempted from disclosure under the Freedom of Information Act or this Ordinance.

3. No Commissioner, officer or employee of the Commission may intentionally disclose any information discussed during a meeting lawfully closed pursuant to the Illinois Open Meetings Act.

Section 12 Commitments: No Commissioner, committee, task force, employee or appointee of the Commission shall in any way bind the Commission to do or not to do any certain thing unless expressly authorized to do so and no act of any such person or body shall in any way be binding upon or recognized by the Commission unless expressly ratified or approved by the Board of Commissioners.

Section 13 Claims and Actions: The Commission shall defend and indemnify its Commissioners, employees and appointees against claims or actions based upon injuries allegedly arising out of any act, error or omission occurring within the exercise of their lawful duties or scope of employment, as the case may be. This Section 5 shall not, however, apply to provide defense or indemnification to any such Commissioner or employee in any action instituted by or on behalf of the Commission against such Commissioner, employee or appointee.

## ARTICLE XII

### MISCELLANEOUS

Section 1 Conflict. In the event of any conflict between these By-laws and any other ordinance, resolution, rule, regulation or order of the Commission, these By-laws shall control.

Section 2 Amendment. In adopting these By-laws, the Board of Commissioners of the DuPage Water Commission recognizes that the organizational guidelines and rules herein set forth may require revision and adjustment as experience will dictate. Amendments may be proposed by any Commissioner. Any proposal to amend these By-laws shall be submitted in writing to each Commissioner for consideration at a regular Commission meeting. No such proposal shall be passed at the same meeting at which it is initially considered. Any amendment to these By-laws shall be effected by ordinance, which ordinance may take effect immediately upon its passage and approval, unless the terms of such ordinance provide otherwise.

Section 3 Suspension of the Rules: The Commission may, by a two-thirds majority vote of the Commissioners present, determine to suspend any of the Rules contained in Article VI through XII hereof; provided, however, that no such suspension shall be construed to suspend the Commission's obligations under applicable state statutes or the "Water Purchase and Sale Contract Between the DuPage Water Commission and Charter Customers" dated June 11, 1986.

## EXHIBIT A

### **DuPAGE WATER COMMISSION**

#### **CLOSED SESSION MINUTES AND VERBATIM RECORDS POLICY**

- I. BACKGROUND AND PURPOSE. The Open Meetings Act requires all public bodies to keep minutes of their meetings, whether opened or closed. With the adoption of amendments to Section 2.06 of that Act, 5 ILCS 120/2.06, public bodies also must maintain a verbatim record of all closed meetings in the form of an audio or video recording. This Policy sets forth specific procedures to ensure that the Board of Commissioners of the DuPage Water Commission—and all committees of the Board of Commissioners and other bodies of the Commission that are subject to the Open Meetings Act (“Subsidiary Bodies”)—comply with the requirements for closed sessions.
- II. CLOSED MEETING MINUTES. Minutes of a closed meeting shall comply with the same requirements applicable to minutes for an open meeting. They shall include, at a minimum, the date, time and place of the meeting; the members of the public body that are present and those that are absent; a summary of discussion on all matters proposed, deliberated or decided; and a record of any votes taken. The Open Meetings Act exemption or exemptions applicable to the closed session should be identified in the minutes of the closed session. Minutes of closed meetings shall not be released for public inspection to the extent that there is a need to preserve confidentiality of matters stated in those minutes.
- III. CLOSED MEETING VERBATIM RECORDS. A verbatim record of each closed meeting is required and shall be subject to the following requirements:
  - A. Recordings. Verbatim records shall be made by audio or video recording. Each recording shall be labeled with the name of the meeting body and the date, time and place of the meeting. A statement identifying each participant and the purposes for the closed meeting should be made at the beginning of the closed meeting.
  - B. Confidentiality. All verbatim records of closed meetings are hereby declared to be confidential and not subject to release except pursuant to this Policy or as required by law.
  - C. Duties of Clerk or Designee. The Clerk, or his or her designee, shall be responsible for creating the verbatim record. After a closed meeting, the verbatim record shall be delivered immediately to the Clerk for storage in a secure location within the DuPage Pumping Station. The Clerk shall be responsible for maintaining, storing and restricting access to all verbatim records.
  - D. Access to Verbatim Records. No individual, nor the Board of Commissioners, nor any Subsidiary Body shall have access to any verbatim record of any closed session unless approved by one of the following specific methods:
    1. Individual Access. Unless otherwise required by law, no individual, including any member of the Board of Commissioners or any Subsidiary Body, shall have access to any verbatim record unless specifically approved by an affirmative majority vote of Board of Commissioners taken at an open meeting. An individual who is granted the right to

access a verbatim record shall do so only at DuPage Pumping Station and in the presence of the Clerk or his or her designee. No verbatim record shall be copied or taken out of the DuPage Pumping Station except as specifically allowed in this Policy or as otherwise required by law.

2. Subsidiary Body Review. A Subsidiary Body may access a verbatim record of one of its closed meetings only by an affirmative majority vote, taken at an open meeting, of all members of that Subsidiary Body then holding office. A Subsidiary Body shall review a verbatim record only at a duly noticed closed meeting of that Subsidiary Body.
  3. Board of Commissioners Review. The Board of Commissioners may access a verbatim record of one of its closed meetings or of a closed meeting of any Subsidiary Body only by an affirmative majority vote of the Board of Commissioners taken at an open meeting. The Board of Commissioners shall review a verbatim record only at a duly noticed closed meeting of the Board.
  4. Clerk. The Clerk shall have access at all times to all verbatim records for purpose of ensuring their proper care and protection. The Clerk may review a verbatim record, however, only if authorized to do so by an affirmative majority vote of the Board of Commissioners taken at an open meeting.
  5. Court. If the Commission is directed by a court order issued in accordance with Section 2.06 of the Open Meetings Act, 5 ILCS 120/2.06, to deliver a verbatim record, then the Clerk or his or her designee shall deliver the relevant verbatim record to the court, after that record has been reviewed by the Commission's General Counsel or staff attorney.
- E. Verbatim Record Not Official Record. A verbatim record shall not be part of the official public record of any meeting. Rather, the approved minutes are to be deemed the official record of the meeting.
- F. Notification of Destruction of Verbatim Record. On a regular basis, the Clerk shall provide a written notice listing all verbatim records that are scheduled for destruction (the "Notice of Destruction"). The Notice shall be in a form substantially the same as the form attached as Exhibit 1 to this Policy. The Notice shall be given to (1) the members of the Board of Commissioners, (2) the members of the Subsidiary Body (if the verbatim record was created at a closed meeting of that Subsidiary Body), (3) the General Manager, and (4) the Commission's General Counsel or staff attorney. The Notice shall include a copy of the approved minutes for each verbatim record scheduled for destruction.
- G. Objection to Destruction.
1. Deadline for Objection. A written objection to the destruction of a verbatim record shall be filed with the Clerk within seven days after the date of a Notice of Destruction, or at least three days before the destruction date set forth in that Notice, whichever is later.

2. Who May Object: The Chairman or any Commissioner may object to the destruction of any verbatim record of a closed session of the Board of Commissioners or of any Subsidiary Body. A member of a Subsidiary Body may object to destruction of a verbatim record only of a closed session of that Subsidiary Body.
- H. Destruction of Verbatim Record if No Objection. Unless a timely written objection to the destruction of a verbatim record is filed with the Clerk in accordance with Section III.G of this Policy, the Clerk shall erase or otherwise destroy each verbatim record listed in the Notice of Destruction on the date set forth in the Notice. No verbatim record shall be erased or otherwise destroyed unless the Clerk certifies that (1) the verbatim record was created at a closed meeting that was concluded at least 18 months prior to the date of destruction and (2) there exists approved minutes of that closed meeting.
- I. Procedure When Objection. The following procedure shall apply when a timely objection to destruction is received by the Clerk:
1. Notice of Objection. The Clerk shall promptly send notice of the objection to all parties who received the Notice of Destruction.
  2. Deliberation on Objection. At a closed session of the Board of Commissioners or Subsidiary Body scheduled promptly after receipt of an objection, the Board of Commissioners or Subsidiary Body shall determine whether destruction of the verbatim record should be delayed. That decision shall require the vote set forth in the next Section III.I.3 of this Policy. If the required vote to delay destruction is not obtained, then the verbatim record shall be destroyed immediately by the Clerk in accordance with Section III.H of this Policy; provided, however, that no verbatim record of a Subsidiary Body shall be destroyed if either the Subsidiary Body or the Board of Commissioners votes to delay its destruction.
  3. Required Vote to Delay Destruction. The destruction of a verbatim record shall be delayed only if: (i) the Board of Commissioners, by an affirmative majority vote, or (ii) the Subsidiary Body, by an affirmative vote of three-fourths of the members of the Subsidiary Body then holding office, authorizes delay of that destruction.
- J. Procedure When Destruction Delayed. If the destruction of a verbatim record has been delayed pursuant to Section III.I of this Policy, then the Board of Commissioners and/or the Subsidiary Body, if any, that voted to delay destruction shall review the verbatim record in closed session. After that review, the reviewing body shall determine either: (1) that the verbatim record should be destroyed, or (2) that the verbatim record may be released pursuant to Section IV of this Policy, or (3) that the destruction of the verbatim record ought to be delayed to a date certain.

No verbatim record shall be destroyed if the Board of Commissioners or the Subsidiary Body, if any, determines that destruction should be delayed or released pursuant to Section IV of this Policy.

If destruction of a verbatim record is delayed to a date certain, then the Clerk shall provide a new Notice of Destruction for that verbatim record in accordance with Section III.F of this Policy.

IV. Review and Release of Closed Meeting Minutes and Verbatim Records.

- A. Review of Minutes. Not less than twice each year, the Board of Commissioners and each Subsidiary Body shall review its closed meeting minutes to determine if they are eligible for release to the public. In its review, the Board of Commissioners or Subsidiary Body shall determine if the minutes contain information that continues to require confidential treatment. Only portions of written minutes that no longer require confidential treatment shall be released. Written minutes shall not be released unless approved by an affirmative majority vote of the Board of Commissioners or Subsidiary Body taken in public session.
- B. Review of Verbatim Records. Pursuant to Section III.B of this Policy, verbatim records always are *per se* confidential. The Board of Commissioners or the relevant Subsidiary Body may undertake a review of a verbatim record, but only in accordance with Section III.D of this Policy. After review of the verbatim record, the Board of Commissioners or the Subsidiary Body shall require that the verbatim record remain confidential unless, after reviewing the verbatim record in its entirety, the verbatim record is approved for release by an affirmative majority vote of the Board of Commissioners or, for a verbatim record of a Subsidiary Body, by an affirmative vote of three-fourths of the members of that Subsidiary Body then holding office. All such votes shall be taken in open session. (Last amended on October 12, 2006 by Ordinance No. O-11-06).

**EXHIBIT 1**

**NOTICE OF PENDING DESTRUCTION OF VERBATIM RECORDS**

***[DATE]***

To: Board of Commissioners  
*[Relevant Subsidiary Body]*  
General Manager  
General Counsel or Staff Attorney

Subject: Notice of Impending Destruction of Verbatim Records

**CONFIDENTIAL/PRIVILEGED**

As required by the Illinois Open Meetings Act, the Office of the Clerk has been charged with the safekeeping of all verbatim records of all closed meetings of the Board of Commissioners and other bodies of the Commission subject to the Illinois Open Meetings Act.

Pursuant to the Open Meetings Act and to the "Closed Session Minutes and Verbatim Records Policy" of the Commission (the "Policy"), the confidential verbatim records listed below are eligible for destruction.

<u>Public Body</u>	<u>Date of Meeting</u>	<u>Proposed Destruction Date</u>

I hereby certify that (1) the relevant public bodies have previously approved written minutes of the closed meetings to which the verbatim records listed in this Notice were prepared and that those minutes are attached, and (2) the closed meetings to which the verbatim records listed in this Notice relate were concluded at least 18 months prior to the Proposed Destruction Date for those verbatim records.

The Office of the Clerk shall destroy the verbatim records listed in this Notice in accordance with the Policy, unless a written objection is filed with the Office of the Clerk within seven days after the date of this notice or not less than three days prior to the Proposed Destruction Date set forth above, whichever is later.

\_\_\_\_\_  
Clerk