



DuPage Water Commission

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AGENDA

**ADMINISTRATION COMMITTEE
THURSDAY, AUGUST 16, 2018
6:15 P.M.**

**600 EAST BUTTERFIELD ROAD
ELMHURST, IL 60126**

COMMITTEE MEMBERS

J. Healy- Chair
J. Broda
D. Novotny
R. Obarski
J. Zay

- I. Roll Call
- II. To approve the Minutes of the July 26, 2018 Rescheduled Committee Meeting
- III. Resolution No. R-26-18: A Resolution Amending the Employee Handbook to add a section on Early Notification of Retirement Incentive Program
- IV. Ordinance No. O-9-18: An Ordinance Approving and Authorizing the Execution of an Amended and Restated Intergovernmental Agreement between the DuPage Water Commission and the Village of Bartlett Concerning the Loan for Connection Facilities to Implement Water Service to the Village of Bartlett
- V. Ordinance No. O-10-18: An Ordinance Approving and Authorizing the Execution of a Second Amendment to the Water Purchase and Sale Contract between the DuPage Water Commission and the Village of Bartlett for the Village of Bartlett Unit System
- VI. Other
- VII. Adjournment

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All visitors must present a valid drivers license or other government-issued photo identification, sign in at the reception area and wear a visitor badge while at the DuPage Pumping Station.

**MINUTES OF A RESCHEDULED MEETING OF THE
ADMINISTRATION COMMITTEE
OF THE DUPAGE WATER COMMISSION
HELD ON THURSDAY, JULY 26, 2018
600 EAST BUTTERFIELD ROAD
ELMHURST, ILLINOIS 60126**

Commissioner Broda called the meeting to order at 6:15 P.M.

Committee members in attendance: J. Broda, D. Novotny, and J. Zay

Committee members absent: J. Healy and R. Obarski

Also in attendance: F. Frelka, J. Rodriguez, and J. Spatz

Commissioner Broda moved to approve the Minutes of the May 17, 2018, Administration Committee meeting. Seconded by Commissioner Novotny and unanimously approved by a Voice Vote.

All voted aye. Motion carried.

Regarding Resolution No. R-19-18: A Resolution Releasing Certain Executive Session Meeting Minutes at the July 26, 2018 DuPage Water Commission Meeting, it was the consensus of the Committee members present to recommend this resolution to the full board.

Regarding the discussion on incentives for senior staff to give advanced notice of retirement, General Manager Spatz stated that after discussions with IMRF, auditors, human resources, and legal counsel on the taxing obligations for offering healthcare; Staff recommends offering a monetary lump sum amount for each month of advanced notice of retirement up to one year and the employee could choose to use it towards healthcare.


Commissioner Broda asked if the notice was irrevocable. General Manager Spatz replied that the notice would be irrevocable unless the Commission decided that it would be in its best interests to have the employee continue working. He also stated that there would be no additional monetary incentive beyond the one year. He added that a resolution would be brought forward at the next board meeting.

With no further discussion, Commissioner Broda adjourned the meeting at 6:20 P.M. Seconded by Commissioner Novotny and approved by a Voice Vote.

All voted aye. Motion carried.

DATE: August 6, 2018

REQUEST FOR BOARD ACTION

AGENDA SECTION	Administration Committee	ORIGINATING DEPARTMENT	General Manager's Office
ITEM	A Resolution Amending the Employee Handbook to add a section on Early Notification of Retirement Incentive Program Resolution No. R-26-18	APPROVAL	
<p>The Commission is requesting to amend the Employee Handbook to include the following language and the full description, including procedures, contained within in Exhibit A into revised section 10.10 Early Notification of Retirement Incentive Program:</p> <p>Early Notification of Retirement Incentive Program The Commission is aware of how important strategic succession planning is to an organization. Therefore, the Commission believes it is in the best interest of the organization to offer an Early Notification of Retirement Incentive to eligible employees to give ample notice prior to retirement.</p> <p>Eligibility: For an employee to be eligible for the Early Notification of Retirement Incentive (ENRI) Program, the following criteria must be met: Eligibility Criteria–</p> <ul style="list-style-type: none">• To be eligible for the Early Retirement Incentive Program employees must have been employed at the Commission for at least 20 years of continuous service or at least 20 years combined service within the water industry (minimum of 5 years with the Commission)• The employee must be 55 years of age• A full-time employee <p>Incentives – The employee would receive a lump sum payment on their last paycheck. The lump sum payment is to be calculated based on \$700 a month for each month given of early notification. The maximum compensable incentive period will be 12 months' notice.</p> <p>The previous section 10.10 Employee Assistance Program will now be section 10.11</p> <p>The Commission's Employee Handbook was last revised on December 14, 2017.</p>			
MOTION: To approve Resolution No. R-26-18			

DuPAGE WATER COMMISSION

RESOLUTION NO. R-26-18

A RESOLUTION AMENDING
THE EMPLOYEE HANDBOOK

WHEREAS, the DuPage Water Commission (the "Commission") is a county water commission created and existing under the Water Commission Act of 1985, 70 ILCS 3720/0.01 et seq., and Division 135 of Article 11 of the Illinois Municipal Code, 65 ILCS 5/11-135-1 et seq.; and

WHEREAS, the Water Commission Act of 1985 provides that the Commission shall determine its own rules of proceeding; and

WHEREAS, in furtherance thereof, the Commission adopted By-Laws of the DuPage Water Commission, which By-Laws were restated by Ordinance No. O-10-12 and amended by Ordinance Nos. O-12-12, O-6-13, O-7-13, O-1-15 (the "By-Laws"); and

WHEREAS, pursuant to the By-Laws, the Board of Commissioners of the DuPage Water Commission has 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; and

WHEREAS, in furtherance thereof and pursuant to Resolution No. R-1-16, the Commission adopted regulations affecting Commission employment and working conditions, which regulations were amended by Resolution Nos. R-29-17 and R-46-17 (the "Employee Handbook"); 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 the Employee Handbook, effective as of September 1, 2018.

Resolution R-26-18

NOW, THEREFORE, BE IT RESOLVED 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 of Section 10.10 Early Notification of Retirement Incentive. The Employee Handbook of the DuPage Water Commission shall be and hereby is amended, effective as of September 1, 2018, as set forth in Exhibit A attached hereto and by this reference incorporated herein and made a part hereof. The General Manager shall provide copies of this amendment to the Employee Handbook to all Commission employees at least 10 days in advance of its effective date.

Resolution R-26-18

SECTION THREE: This Resolution shall be in full force and effect from and after its adoption.

AYES:

NAYS:

ABSENT:

ADOPTED this _____ day of _____, 2018.

Chairman

ATTEST:

Clerk

Exhibit A

CHAPTER 10 – EMPLOYEE BENEFITS

10.10 Early Notification of Retirement Incentive Program

The Commission is aware of how important strategic succession planning is to an organization. Therefore, the Commission believes it is in the best interest of the organization to offer an Early Notification of Retirement Incentive to eligible employees to give ample notice prior to retirement.

Initiation of the Early Notification of Retirement Agreement

Eligible employees desiring to participate in this program must advise their immediate supervisor as soon as possible.

Eligibility. To be eligible for the Early Notification of Retirement Incentive (ENRI) Program, the employee must meet following criteria:

- The employee must have been employed at the Commission for at least 20 years of continuous service, or at least 20 years of combined service within the water industry (minimum of 5 years with the Commission); and
- The employee must be at least 55 years of age; and
- The employee must be a Full-time employee; and
- The employee must apply for the ENRI Program at least 3 months before his/her proposed separation date.

Procedures. The employee must sign and submit to General Manager an Early Notification of Retirement Incentive Application (the “Application”) stating his/her intent to retire and proposed retirement date.

- Approval of the Application is at the discretion of the General Manager.
- The employee may withdraw the Application by submitting a written request to withdraw the Application to the General Manager within seven (7) days of submitting the Application.
- If the Application is approved, the employee is required to complete and submit to the General Manager a Separation Agreement and Release and letter of resignation within five days of approval in order to receive any ENRI payments. If the employee does not complete and submit the Separation Agreement and Release and submit a letter of resignation within five (5) days of approval of the Application by the General Manager, the approved Application will be automatically withdrawn, and the employee will receive no ENRI payment.
- After submitting the signed Separation Agreement and Release and letter of resignation, the employee will have seven days in which to revoke the ENRI agreement by submitting

Resolution R-26-18

his/her intent to revoke the Application, Separation Agreement and Release, and resignation, in writing, to the General Manager. Once the seven days have passed, the Separation Agreement and Release, resignation, and agreement to participate in the ENRI program is not revocable unless approved by the Commission for extenuating circumstances.

Incentives. The qualifying employee will receive a lump sum payment on their last paycheck. The lump sum payment is to be calculated based on \$700 a month for each month given of early notification, up to a maximum of 12 months.

The total incentive benefits may not exceed 12 months. Any changes to the employees' submitted resignation/retirement date must be approved by the General Manager and, if approved, may affect the amount of the ENRI payment.

10.11 Employee Assistance Program

The Commission is interested in the well-being of its employees and their families and recognizes personal and family problems may affect work performance if left unresolved. The Commission provides confidential and professional guidance, counseling and referral service to employees and their immediate family members through its Employee Assistance Program (EAP). The EAP is designed to assist employees and their family members who are experiencing behavioral, medical, family, substance abuse, or serious financial problems.

Participation in the EAP is voluntary and strictly confidential. An employee cannot be required to seek assistance; however, supervisors or the General Manager, may make a formal written referral if job performance has deteriorated. The EAP is offered at no cost to employee and their immediate family members. If a referral to an outside agency is necessary, the outside agency may require additional fees from the employee for their service.

Employees encountering such problems may contact the EAP office directly (Perspectives, LTD) at 800-456-6327 at any time. Perspectives EAP is available 24/7. The website is <https://www.perspectivesltd.com/home.aspx>

SEPARATION AGREEMENT AND RELEASE FORM

The following Separation Agreement and Release Form is made between _____ and DuPage Water Commission regarding
(Employee Name)
the terms of my voluntary separation from the DuPage Water Commission.

PERSONAL INFORMATION - All fields are required

EMPLOYEE NAME: _____

SUPERVISOR NAME: _____

STATUS: _____

EMPLOYEE PHONE NUMBER: _____

EMPLOYEE'S EMAIL ADDRESS: _____

SEPARATION DATE: **Month** **Day** **Year**

LAST DAY WORKED: **Month** **Day** **Year**

By submitting this form I am notifying you that I am voluntarily separating my employment with DuPage Water Commission.

I understand that I have seven (7) days from the date below to revoke (in writing) this Separation Agreement and Release. I further understand that if I revoke this Separation and Release Agreement during that seven (7) day period, I will not be eligible for any payments or other consideration under this ENRI.

I certify that the information furnished is true and correct I further acknowledge my decision to resign is voluntary.

Employee Signature _____ **Date** _____

Supervisor Signature _____ **Date** _____

EARLY NOTIFICATION OF RETIREMENT INCENTIVE PROGRAM APPLICATION

I wish to apply for the Early Notification of Retirement Incentive (ENRI) Program for DuPage Water Commission Employees. I understand participation in the ENRI means my employment will end on my separation date, and, if eligible and approved by the General Manager, I will receive a lump sum payment, less required deductions, in accordance with the terms of the ENRI Program.

I understand in order to be considered for this ENRI I must complete and submit this Application to the General Manager at least three months prior to my proposed separation date. I understand I can change my mind and withdraw this Application within seven (7) days after submitting this Application by notifying the General Manager in writing of my intent to withdraw the Application. If I withdraw my Application, I understand I will not be considered for participation in this ENRI unless I reapply at least three months before my proposed separation date.

My participation in this ENRI is not guaranteed and must be approved by the General Manager. I understand I will be informed of whether or not my Application to participate is approved. If approved, I understand I will be required to sign and submit to General Manager, within five (5) days of approval by the General Manager, a Separation Agreement and Release Form and resignation letter in order to receive the ENRI payment and any other consideration under the ENRI. If I do not submit the signed Separation Agreement and Release Form and resignation letter within this five (5) day period, my approved Application will be automatically withdrawn, and I will not receive any ENRI payment.

I understand I will have seven (7) days from the date I submit my signed Separation Agreement and Release Form and resignation letter to revoke the Separation Agreement and Release by submitting written notice of the revocation to the General Manager. If I revoke the Separation and Release Agreement during that seven (7) day period, I will not be eligible for any payment or other consideration under this ENRI Application.

Personal Information - All fields are required

Name: _____ Job Title: _____

Work Phone Number: _____

Work E-Mail Address: _____


Month Day Year

Proposed Separation Date:

By submitting this form, I am requesting participation in this ENRI. I understand I can change my mind within the designated time period described above. I acknowledge my decision to apply is voluntary.

DATE: August 10, 2018

REQUEST FOR BOARD ACTION

AGENDA SECTION	Administration Committee	ORIGINATING DEPARTMENT	General Manager's Office
ITEM	An Ordinance Approving and Authorizing the Execution of a Second Amendment to the DuPage Water Commission Water Purchase and Sale Contract with the Village of Bartlett for the Village of Bartlett Unit System Ordinance No. O-10-18	APPROVAL	
Account No.: N/A			
Ordinance No. O-10-18 would authorize and direct the Chairman to execute a Second Amendment to the Water Purchase and Sale Contract for the Village of Bartlett Unit System with the Village of Bartlett.			
MOTION: To approve Ordinance No. O-10-18			

DUPAGE WATER COMMISSION

ORDINANCE NO. O-10-18

AN ORDINANCE APPROVING AND AUTHORIZING THE EXECUTION OF A SECOND AMENDMENT TO THE WATER PURCHASE AND SALE CONTRACT BETWEEN THE DUPAGE WATER COMMISSION AND THE VILLAGE OF BARTLETT FOR THE VILLAGE OF BARTLETT UNIT SYSTEM

WHEREAS, the DuPage Water Commission (the "Commission") was formed and exists pursuant to the Water Commission Act of 1985 (70 ILCS 3720/1 *et seq.*) and Division 11 of Article 135 of the Illinois Municipal Code (65 ILCS 5/11-135-1 *et seq.*) (collectively the "Act") for the purpose of financing, constructing, and operating a water supply system to serve its Charter Customers and other customers in DuPage County with a common source of supply of water from Lake Michigan; and

WHEREAS, the Commission and the Village of Bartlett ("Bartlett") previously entered into a Water Purchase and Sale Contract for the Bartlett Unit System; and

WHEREAS, the Commission and the Village of Bartlett ("Bartlett") subsequently entered into a First Amendment to the Water Purchase and Sale Contract for the Bartlett Unit System; and

WHEREAS, the Commission and Bartlett have each determined that it is in their respective best interests to enter into a Second Amendment to the Water Purchase and Sale Contract for the Bartlett Unit System in substantially the form attached hereto and by this reference incorporated herein and made a part of as Exhibit A; and

WHEREAS, prior to or simultaneously with the execution of the Second Amendment to the Water Purchase and Sale Contract for the Bartlett Unit System, Bartlett and the Commission shall enter into an Amended and Restated Intergovernmental Agreement Concerning the Loan for Connection Facilities to Implement Water Service to the Village of Bartlett; and

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

SECTION ONE: The foregoing recitals are hereby incorporated herein as findings of the Board of Commissioners of the DuPage Water Commission.

SECTION TWO: A Second Amendment to the Water Purchase and Sale Contract between the DuPage Water Commission and the Village of Bartlett for the Village of Bartlett Unit System, in substantially the form attached hereto as Exhibit A, is hereby approved.

SECTION THREE: The Chairman of the DuPage Water Commission shall be and hereby is authorized to and directed to execute a Second Amendment to the Water Purchase and Sale Contract for the Village of Bartlett Unit System with the Village of Bartlett in substantially the form attached hereto as Exhibit A; provided, however, that said Second Amendment to the Water Purchase and Sale Contract shall not be so executed on behalf of the DuPage Water Commission unless and until the Chairman shall have been presented with copies of the completed Second Amendment to the Water Purchase and Sale Contract and the Amended and Restated Intergovernmental Agreement Concerning the Loan for Connection Facilities to Implement Water Service to the Village of Bartlett executed by the Village of Bartlett.

SECTION FOUR: Upon execution by the Chairman, the Second Amendment to the Water Purchase and Sale Contract, and all other things provided for therein, shall be deemed accepted by the DuPage Water Commission without further act.

Ordinance No. O-10-18

SECTION FIVE: This Ordinance shall be in full force and effect from and after its adoption by a majority affirmative vote of all the Commissioners including the affirmative vote of at least 1/3 of the Commissioners appointed by the County Board Chairman and 40 percent of the Commissioners appointed by the Mayors.

AYES:

NAYS:

ABSENT:

ADOPTED this 16th day of August, 2018.

Chairman

ATTEST:

Clerk

**SECOND AMENDMENT TO THE DUPAGE WATER COMMISSION
WATER PURCHASE AND SALE CONTRACT WITH THE VILLAGE OF BARTLETT
FOR THE VILLAGE OF BARTLETT UNIT SYSTEM**

This Second Amendment to the February 7, 2017 Water Purchase and Sale Contract, dated as of August 16, 2018, (the “Second Amendment”) by and between the **DUPAGE WATER COMMISSION**, DuPage, Cook and Will Counties, State of Illinois (the “Commission”), a county water commission and public corporation under Division 135 of Article 11 of the Illinois Municipal Code, 65 ILCS 6/11-135-1 *et seq.*, and the Water Commission Act of 1985, 70 ILCS 3720/1 *et seq.* (collectively, the “Acts”), and the **VILLAGE OF BARTLETT**, Illinois, a municipal corporation duly organized and existing under the laws of the State of Illinois (“Bartlett”);

W I N E S S E T H:

WHEREAS, the Commission has been organized under the Acts to supply water within its territorial limits; and

WHEREAS, Bartlett is in the process of designing and constructing a waterworks system that will be owned and operated by Bartlett and extended or improved from time to time to meet the potable water requirements of all residents and businesses to be served with water from Bartlett; and

WHEREAS, pursuant to the Acts, Article VII, Section 10 of the Illinois Constitution of 1970, and the Intergovernmental Cooperation Act, 5 ILCS 220/1 *et seq.*, the Commission and Bartlett are authorized to enter into this Contract; and

WHEREAS, the Commission and Bartlett entered into a Water Purchase and Sale Contract dated February 7, 2017 (the “Original Contract”) to, *inter alia*, provide water to Bartlett along with building certain improvements on behalf of Bartlett; and

WHEREAS, the Commission and Bartlett entered into a First Amendment to the Water Purchase and Sale Contract dated May 15, 2018 (the "First Amendment") to, *inter alia*, provide water to Bartlett along with building certain improvements on behalf of Bartlett; and

WHEREAS, Bartlett has encountered obstacles to building certain of the necessary improvements in a timely manner; and

WHEREAS, to allow Bartlett to purchase water sooner than otherwise would have been possible, Bartlett has requested that the Commission build the improvements set forth in the plans attached hereto as Exhibit A (the "New Stearns Transmission Mains"); and

WHEREAS, Bartlett will pay the Commission for the cost of constructing the New Stearns Transmission Mains under the Second Amended Intergovernmental Agreement Concerning The Loan For Connection Facilities To Implement Water Service To The Village Of Bartlett; and

WHEREAS, having the Commission build the New Stearns Transmission Mains will provide cost savings to both the Commission and Bartlett, as well as allowing the Commission to sell water earlier to Bartlett.

NOW, THEREFORE, in consideration of the foregoing recitals and of the mutual covenants and agreements herein contained, the Commission and Bartlett hereby agree as follows:

SECTION 1. PREAMBLES.

The preambles hereto are hereby incorporated herein by this referenced and are made fully a part of this Second Amendment.

SECTION 2. PRIOR AGREEMENTS.

Except as expressly amended by this Second Amendment, the Original Contract and the First Amendment shall remain in full force and effect in accordance with its terms, provisions and conditions. The Original Contract, the First Amendment and the Second Amendment are collectively known as the "Water Purchase and Sale Contract."

SECTION 3. DEFINITIONS.

Except as otherwise set forth in this Second Amendment, all capitalized terms used herein will have the respective meanings given them in the Original Contract and the First Amendment.

SECTION 4. CONSTRUCTION OF NEW STEARNS TRANSMISSION MAINS.

In addition to any other Connection Facilities being constructed by the Commission under the Original Contract and the First Amendment, the Commission shall construct the New Stearns Transmission Mains. The Commission shall not be liable for any delay in the completion of any Connection Facilities caused by the Commission's construction of the New Stearns Transmission Mains. To the fullest extent permitted by law, Bartlett shall indemnify and hold the Commission harmless from any and all claims, losses and injuries (including attorneys' fees) that may arise due to the Commission's construction of the New Stearns Transmission Mains.

SECTION 5. CONNECTION FACILITIES COST.

The definition of the Connection Facilities Cost in the Original Contract under Subsection 2T shall also include any additional costs incurred by the Commission to construct the New Stearns Transmission Mains.

SECTION 6. CONNECTION FACILITIES COST PAYMENT.

Subsection 7C of the Original Contract is deleted in its entirety and the following language is substituted therefor:

“Bartlett shall pay to the Commission its Connection Facilities Cost. Prior to the Commission’s commencement of design of the Commission Connection Facilities pursuant to Subsection 10H of the Original Contract, Bartlett and the Commission shall enter into an Intergovernmental Agreement Concerning The Loan For Connection Facilities To Implement Water Service To The Village Of Bartlett (the “Connection Facilities Cost IGA”) substantially in the form attached hereto as Exhibit H for a loan in an amount not to exceed \$21,000,000 (the “Commitment Amount”), which is the current estimated sum of: (i) all legal, engineering, consulting and administrative costs and expenses incurred or accrued in connection with the review and processing plans for the Bartlett Unit System Connection Facilities and in connection with the negotiation, preparation, consideration and review of the Water Purchase and Sale Contract, (ii) 125% of the Commission’s estimate of the total cost of construction of the Commission Connection Facilities, including without limitation all legal, engineering, consulting and administrative costs and expenses; and (iii) any costs incurred by the Commission to construct the New Stearns Transmission Mains. As of the date of the Original Contract, the Commission’s estimate of the total cost of construction of the Commission Connection Facilities, including legal, engineering, consulting and administrative costs and expenses, is set forth in Exhibit B-2 attached to the Original Contract. The Commission may draw upon the Commitment Amount, without Bartlett’s consent, but may only employ the proceeds to pay for the Connection Facilities Cost invoiced to, or otherwise documented by, the Commission and the

Commission shall promptly notify Bartlett of any such withdrawals in compliance with the terms of the Connection Facilities Cost IGA. If at any time the Commission reasonably determines that the funds remaining in the Commitment Amount are not, or may not be, sufficient to pay in full the remaining unpaid Connection Facilities Cost (the "Possible Shortfall"), then the Commission shall notify Bartlett of the Possible Shortfall, and if the parties do not agree within 30 days of said notice to increase the amount of the Commitment Amount to an amount reasonably determined by the Commission to be sufficient to pay in full the remaining unpaid Connection Facilities Cost, Bartlett shall within 10 days deposit the amount of the Possible Shortfall with the Commission. Failure to so deposit the amount of the Possible Shortfall within the 10-day time period shall be grounds for the Commission to retain a possessory lien upon any remaining balance of the Commitment Amount (as damages security) and terminate the Water Purchase and Sale Contract. Upon final payment of all amounts due under all executed contracts for the design, construction and inspection of the Commission Connection Facilities, the final loan amount under the Connection Facilities Cost IGA shall be set and the Commission shall not be obligated to lend any further funds to Bartlett. Bartlett's obligation to make the Connection Facilities Cost payments as required hereunder is unconditional and irrevocable, payable without setoff or counterclaim, and irrespective of whether Lake Water is ever furnished, made available, or delivered to Bartlett, or whether the Waterworks System is completed, operable, or operating, and notwithstanding suspension, interruption, interference, reduction, or curtailment of the supply of Lake Water."

SECTION 7. OWNERSHIP OF NEW STEARNS TRANSMISSION MAINS.

At the completion of the construction of the New Stearns Transmission Mains, Bartlett shall own and possess the New Stearns Transmission Mains and shall become a part of the

Bartlett Unit System. Within the exercise of reasonable business judgment in the manner so as not to cause of a default hereunder, Bartlett shall dispose of the New Stearns Transmission Mains only to the extent that such property is no longer useful or profitable in the operation of the Bartlett Unit System.

SECTION 8. PROPERTY ACQUISITION.

Bartlett shall cooperate with the Commission in the construction of the New Stearns Transmission Mains. Bartlett is responsible for acquiring all necessary real property and easements to build the New Stearns Transmission Mains and shall ensure the right and access to the area necessary for the Commission to build the New Stearns Transmission Mains prior to construction of the New Stearns Transmission Mains free and clear of all liens, claims, encumbrances and restrictions unless otherwise approved by the Commission in writing, provided the Commission agrees to restore the easement property in a reasonable manner after construction. Bartlett shall grant the Commission all access to its property and easements necessary to construct and install the New Stearns Transmission Mains and all other equipment and appurtenant devices.

SECTION 9. MUTUAL COOPERATION.

Should any person having proper standing to do so bring a cause of action before any court of competent jurisdiction challenging the method or procedures by or through which the parties entered into this Second Amendment, the parties agree that they shall fully cooperate to defend such cause of action. Further, and in addition to the foregoing sentence, the parties agree that they shall, to the extent legally permissible, execute such petitions, issue such notices, conduct such meetings, including all lawfully required public hearings and to promptly pass and

adopt such ordinances and resolutions and otherwise promptly exercise the respective lawful authority to effectuate the intent of this Second Amendment.

SECTION 10. SEVERABILITY.

In the event that any phrase, paragraph, or portion of this Second Amendment is found to be invalid, illegal or unenforceable by any court of competent jurisdiction, such finding of invalidity, illegality or unenforceability shall not affect the validity, legality or enforceability of the remaining portions of this Second Amendment.

SECTION 11. MODIFICATIONS OR AMENDMENTS.

The Water Purchase and Sale Contract shall not be modified or amended in any way except in writing approved by both parties hereto. No such modifications or amendment shall materially impair or adversely affect the ability or obligation of Bartlett to make payments to the Commission to meet the Commission's obligations under the Chicago Contract, the Charter Customer Contract, and the Bond Ordinances.

SECTION 12. EXHIBIT INCORPORATED.

Exhibit A to this Second Amendment is hereby fully incorporated into the Water Purchase and Sale Contract as a substantive provision of this Second Amendment.

SECTION 13. EXECUTION IN COUNTERPARTS.

This Second Amendment shall be executed in two counterparts, each of which shall be deemed to be an original, and each of which shall constitute but one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have caused their respective corporate names to be subscribed hereto and their respective corporate seals to be affixed hereto and attested by their duly authorized offices, all on the date set opposite their respective corporate names.

DATE: _____, 2018

VILLAGE OF BARTLETT

By: _____

Its: _____

ATTEST:

Village Clerk

DATE: _____, 2018

DUPAGE WATER COMMISSION

By: _____

Its: _____

ATTEST:

Clerk

EXHIBIT A

PLANS FOR THE NEW STEARNS TRANSMISSION MAINS