



AGENDA – Administration Committee

Thursday, September 21, 2023

6:15 PM

- I. Roll Call
- II. Approval of the August 17, 2023 Administration Committee Minutes

RECOMMENDED MOTION: To approve the Minutes of August 17, 2023, Administration Committee Meeting of the DuPage Water Commission.

- III. Request for Board Action: To approve the 2024 Schedule of Board Meetings
- IV. Request for Board Action: Approval of Professional Development travel and expenses as listed in the approved FY-23/24 Management Budget.
- V. Resolution No. R-48-23: A Resolution to approve the Collective Bargaining Agreement between the DuPage Water Commission and the International Union of Operating Engineers Local 399 (AFL-CIO)
- VI. Resolution No. R-49-23: A Resolution Authorizing staff to provide proposed 2024-2064 DWC/Customer Contract to DWC Customers and to schedule Joint Meetings as required by Section 16 of the current Customer Contract
- VII. Resolution No. R-51-23 A Resolution Suspending Purchasing Procedures and Approving the Renewal of the Unitrends Services and the Purchase and Installation of a new Unitrends Appliance, at a cost of \$83,137.17.
- VIII. Old Business
- IX. New Business
 - a. By-law update
- X. Other
- XI. Adjournment

**Minutes of a Meeting
of the**

ADMINISTRATION COMMITTEE

DuPage Water Commission
600 E. Butterfield Road, Elmhurst, Illinois

August 17, 2023

- I. Commissioner Healy called the meeting to order at 6:15 PM.

Commissioners in attendance: N. Cuzzone, J. Healy , K. Rush, D. Van Vooren, J. Zay

Commissioners absent:

Also in attendance: P. May, D. Mundall

- II. Commissioner Van Vooren moved to approve the Minutes of the June 15, 2023, Administration Committee Meeting, seconded by Commissioner Rush, unanimously approved by a voice vote. All aye, motion carried.
- III. Commissioner Cuzzone made a motion to approve R-32-23, A Resolution to review Executive Session Minutes. Seconded by Chairman Zay, unanimously approved by a voice vote. All aye, motion carried.
- IV. Commissioner Van Vooren made a motion to approve Resolution No. R-33-23, A Resolution approving and authorizing the Execution of a Memorandum of Understanding for Geographic Information System Data Sharing with Kane County, Illinois. Commissioner Rush raised the question of cyber security on the Kane County side. General Manager May replied that he was not aware of the specific cyber security precautions of Kane County, but the information sharing was passive rather than a real time transfer of information, therefore the Commission can determine what is shared. The motion was seconded by Commissioner Rush, unanimously approved by a voice vote. All aye, motion carried.
- V. Commissioner Cuzzone made a motion to approve R-36-23, A Resolution Authorizing and Ratifying the Disposal of Certain Personal Property Owned by the DuPage Water Commission. Commissioner Cuzzone asked if all of the hard drives are scrubbed before donation; General Manager May assured him that they are. Seconded by Commissioner Rush, unanimously approved by a voice vote. All aye, motion carried.
- VI. Commissioner Rush made a motion to approve R-37-23, a Resolution to approve the Amended Intergovernmental Escrow Agreement with WaterLink Communities of

Montgomery, Oswego, and Yorkville. Seconded my Commissioner Cuzzone, unanimously approved on a voice vote, all aye, motion carried.

VII. Commissioner Cuzzone made a motion to approve R-42-33, A Resolution Authorizing the Chairman of the DuPage Water Commission to negotiate a Source Water Contract extension with the City of Chicago. Commissioner Van Vooren asked for details of the City of Chicago contract negotiations. General Manager May responded by informing the committee that the Commission does not have a draft copy of the contract to date and negotiations are going much more slowly than desired. There has been no response to the term sheet, and the City of Chicago is not engaged in a meaningful manner to date. The Commission continues to focus on enhanced control of the Lexington Pumping Station and adoption of the cost-of-service model as primary objectives. The motion was seconded by Commissioner Van Vooren, unanimously approved by a voice vote. All aye, motion carried.

VIII. Commissioner Van Vooren made a motion to approve R-43-23, A Resolution Ratifying Purchase Order No. 40278 to Willowbrook Ford for the purchase of a 2023 utility vehicle, at a cost of \$81,500.00. Seconded by Commissioner Rush, unanimously approved by a voice vote. All aye, motion carried.

IX. Old Business

No Old Business was offered.

X. New Business

No New Business was offered.

XI. Other

XII. Adjournment

Commissioner Van Vooren moved to adjourn the meeting at 6:27 PM, seconded by Commissioner Rush, unanimously approved by a voice vote. All aye, motion carried. Meeting adjourned.



Resolution #: Click or tap here to enter text.

Account: N/A

Approvals: *Author / Manager / Finance / Admin*

DM - - PDM

REQUEST FOR BOARD ACTION

Date: 9/14/2023
Description: 2024 Schedule of Meetings
Agenda Section: Administration Committee
Originating Department: Administration

Seeking Board approval of the Schedule of Board and Committee Meetings for calendar year 2024.

Recommended Motion:

Motion of approve the 2024 Schedule of meetings.



MEMORANDUM

To: Interested news mediums
From: Paul D. May, P.E., General Manager
Date: September 14, 2023
Subject: **2024 Schedule of Meetings**

As required in 5 ILCS 120/2.03 the following is a list of regular board meetings for the DuPage Water Commission:

January 18, 2024
February 15, 2024
March 21, 2024
April 18, 2024
May 16, 2024
June 20, 2024
July 18, 2024
August 15, 2024
September 19, 2024
October 17, 2024
November 21, 2024
December 19, 2024

The regular Commission meetings begin at **6:30 P.M.**, and are held at the Commission Offices at 600 East Butterfield Road, Elmhurst, Illinois 60126. Administration Committee to begin at **6:15 P.M.**, the Engineering and Construction Committee to begin at **6:00 P.M.**, and the Finance Committee to begin at **5:45 P.M.** prior to the regular Board meetings.



Resolution #: N/A

Account: 01-60-613301

Approvals: *Author / Manager / Finance / Admin*

RCB RCB CAP PDM

REQUEST FOR BOARD ACTION

Date: 9/14/2022

Description: Approval of Professional Development Travel and Expenses

Agenda Section: Administration Committee

Originating Department: Administration

The following are approved budgeted expenditures in FY 23/24 for Commission Employees to attend professional development training programs and/or conferences in Q4 including early discount registrations and fares, if applicable.

Location/Event		Budgeted/Estimated	
Dates	Description	Attendees	Expenditure
September 28-30, 2023	2023 International Facility Management Association World Workplace Conference. Denver, CO	Mike Weed, Supervisor of Operations and Instrumentation	\$2,500
October 1-6, 2023	Illinois Public Service Institute (IPSI) – Effingham, IL	Aurelio Melgoza, Lead Operator	\$2,120

Recommended Motion:

To Ratify the Estimated Expenditures as listed in the approved FY-23/24 Management Budget and as listed above.



Resolution #: R-48-23

Account: 01-60-611200

Approvals: *Author / Manager / Finance / Admin*

PDM - CAP PDM

REQUEST FOR BOARD ACTION

Date: 9/11/2023

Description: **Recommendation to approve collective bargaining agreement between the DuPage Water Commission and the International Union of Operating Engineers Local 399 (AFL-CIO)**

Agenda Section: Administration Committee

Originating Department: Administration

The collective bargaining agreement with IUOE 399 expired on April 30, 2023. DWC administrative staff commenced negotiations with IUOE 399 in January 2023 and has been engaged in negotiations since that time. Progress was somewhat slower than desired in part due to an expansion of the bargaining unit. Nonetheless, negotiations have concluded and the attached 3-year contract, terminating April 30, 2026 is recommended for approval.

Notable changes from the previous contract include the following:

- Updating job titles throughout
- Clarification/definition of “On-call” (Section 5.1C, 23.5) and “Call-back (Section 5.6)” status, including prescribed procedures
- Increase of shift premium from \$1.30/ hr to \$1.40/hr in 2024 and \$1.50/hr in 2025
- Revision of Personal Leave to provide employees with more than 25 years of service with 16 additional personal leave hours upon reaching 25 years (Section 10.4)
- Revision of vacation accrual to cause employees to accrue their 3rd week of vacation at the beginning of their 5th year of service rather than the end of their 5th year of service (Section 11.1)
- Addition of longevity pay increases for employees with 30 years of service and 35 years of service, as compared to the previous 5-year cycle which ended at 25 years (Section 23.3)
- Inclusion of “Me too” clause for certification and accreditation incentive pay (Section 23.6)

Recommended Motion:

It is recommended that Resolution R-48-23 be approved authorizing execution of a three-year collective bargaining agreement with the International Union of Operating Engineers Local 399.

DUPAGE WATER COMMISSION

RESOLUTION NO. R-48-23

A RESOLUTION AUTHORIZING APPROVAL OF A COLLECTIVE BARGAINING AGREEMENT BETWEEN THE DUPAGE WATER COMMISSION AND THE INTERNATIONAL UNION OF OPERATING ENGINEERS LOCAL 399 (AFL-CIO)

WHEREAS, the Commission was formed and exists pursuant to 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., for the purpose of securing an adequate source and supply of water for its customers; and

WHEREAS, the collective bargaining agreement with IUOE 399 contract terminated on April 30, 2023; and

WHEREAS, the DuPage Water Commission received a notice of contract reopener on January 6, 2023, which included an expanded bargaining unit; and

WHEREAS, DWC has engaged in good-faith negotiations with employees and representatives of IUOE local 399, and are in agreement with all parties that the collective bargaining agreement term ending April 30, 2026 attached hereto as Exhibit 1 is favorable to all parties.

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

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

SECTION TWO: The Collective Bargaining Agreement between the DuPage Water Commission and the International Union of Operating Engineers Local 399, term ending April 30, 2026, attached hereto as Exhibit 1 is hereby approved.

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

	Aye	Nay	Absent	Abstain
Bouckaert, D.				
Cuzzone, N.				
Fennell, J.				
Healy, J.				
Novotny, D.				
Pruyn, J.				
Romano, K.				
Rush, K.				
Russo, D.				
Saverino, F.				
Suess, P.				
Van Vooren, D.				
Zay, J.				

ADOPTED THIS _____ DAY OF _____, 2023.

James F. Zay, Chairman

ATTEST:

Danna Mundall, Clerk

Board/Resolutions/2023/R-48-23.docx

EXHIBIT 1

DELETE PAGE IF NO ATTACHMENT

**COLLECTIVE BARGAINING AGREEMENT
BETWEEN**

**INTERNATIONAL UNION OF OPERATING ENGINEERS
LOCAL 399 (AFL-CIO)**

AND

DuPAGE WATER COMMISSION

MAY 1, 2023 THROUGH APRIL 30, 2026

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PREAMBLE

In order to establish harmonious employment relations through a mutual process, to provide fair and equitable treatment to all employees, to promote the quality and continuance of public service, to achieve full recognition for the value of employees and the vital and necessary work they perform, to specify wages, hours, benefits and working conditions, and to provide for the prompt and equitable resolution of disputes, the parties agree as follows:

AGREEMENT

This Agreement has been made and entered into by and between the DuPage Water Commission (hereinafter referred to as the "Employer" or the "Commission") and the International Union of Operating Engineers Local 399 (AFL-CIO) (hereinafter referred to as the "Union"), on behalf of certain employees described in ARTICLE I.

ARTICLE I **RECOGNITION**

SECTION 1.1. RECOGNITION

The Employer recognizes the Union as the exclusive collective bargaining representative for all full-time and part-time employees employed in the following titles: Assistant Water Operator (now known as Assistant Operator); Lead Water Operator (now known as Lead Operator); Control Room Operator (now known as Operating Coordinator); Field Maintenance Technician (now known as Senior Technician or Field Maintenance Technician, depending upon qualifications and experience); Field Maintenance Coordinator; Meter Technician (now known as Instrumentation and Metering Technician), Instrumentation and Metering Coordinator, Senior Instrumentation Technician, Instrumentation Technician, Field Maintenance Technician, Senior Pipeline Technician, Utility Locator, Pipeline Maintenance Technician and Maintenance Technician; and excluding all other employees of the Employer as

set forth in the bargaining unit certified by the Illinois Labor Relations Board in Case No. S-UC-(S)-17-073, and as clarified in Case No. S-UC-23-106.

SECTION 1.2. PART-TIME EMPLOYEES

Part-time employees are not eligible to earn benefits or participate in the Employer's benefit programs. The only exception is if required by law.

ARTICLE II RIGHTS OF EMPLOYER

It is understood and agreed that the Commission retains all traditional, statutory, and constitutional rights and authority to manage and operate the employees of the Commission in all respects, including, but not limited to, all rights and authority exercised by the Commission prior to the execution of this Agreement, except as amended, changed or modified in a specific provision set forth in this Agreement. These rights include but are not limited to, the following:

- a) Plan, direct, control, and determine all functions, operations, standards and services;
- b) Supervise, direct and evaluate employees;
- c) Establish the qualifications for employment and employ employees;
- d) Establish reasonable work rules, schedules, assignments and assign employees;
- e) Hire, promote, transfer, schedule, and assign employees in positions and create, combine, modify, and eliminate positions within the Operations and Instrumentation Department and the Pipeline and Remote Facilities Department, however, prior to any elimination of positions within those Departments, the Commission and the Union will meet and discuss alternatives;
- f) Suspend, discharge, demote, and take other disciplinary action against employees for just cause (with the exception of probationary employees, who may be discharged without cause);
- g) Establish reasonable work and productivity standards and, from time to time, amend such standards;
- h) Determine whether work and/or services are to be provided by employees covered by this Agreement or by other employees or persons not covered by this Agreement;
- i) Determine the number of hours of work and shifts per workweek and assign

overtime;

- j) Maintain efficiency of operations and services of the Operations and Instrumentation Department and the Pipeline and Remote Facilities Department;
- k) Take whatever action is necessary to comply with State and Federal law;
- l) Secure, change or eliminate methods, equipment, and facilities for the improvement of operation and to establish and implement a budget;
- m) Determine the kinds and amounts of services to be performed as it pertains to operations, and the number and kind of positions and classifications to perform such services, to include revision, combination, addition or elimination of job classifications;
- n) Determine the methods, means, organization and personnel by which operations are to be conducted to include services and staffing requirements by program, unit, and division.

ARTICLE III **UNION RIGHTS**

SECTION 3.1. UNION ACTIVITY DURING WORKING HOURS

Authorized agents of the Union shall have access to the Employer's establishment during business hours for the purpose of adjusting disputes, investigating working conditions, and ascertaining that this Agreement is being adhered to; provided that both: (a) the Union agent provides notice to the General Manager (or designee) at least twenty-four (24) hours prior to the visit (unless otherwise agreed to by the General Manager (or designee)), and (b) the Union agent shall not interfere with the Employer's business operations or the work performed by the employees. Covered employees shall not engage in Union business during working hours unless otherwise agreed to by the General Manager (or designee) and shall ask for and obtain permission before leaving their jobs in order to conduct Union business so that covered employees' conduct of Union business shall not interfere with the Employer's business operations or the work performed by the employees.

SECTION 3.2. UNION BULLETIN BOARD

The Employer shall provide a Union bulletin board at the work location. The board shall be for the sole and exclusive use of the Union. The Union agrees not to post or display any inappropriate, offensive or discriminatory information on the bulletin board.

ARTICLE IV UNION DUES/FAIR SHARE CHECK OFF

SECTION 4.1. DEDUCTIONS

The Employer agrees to deduct from the pay of those employees who are Union members any or all of the following:

- (A) Union membership dues, assessments, PAC, or fees;
- (B) Union sponsored credit and other benefit programs.

Requests for any of the above shall be made on a form provided by the Union and shall be made within the provisions of the Government Salary Withholding Act and/or any other applicable State statute.

Upon receipt of an appropriate written authorization from an employee, such authorized deductions shall be made in accordance with the law and shall be remitted to the Union on a bi-weekly basis at the address designated in writing by the Union. The Union shall advise the Employer of any increases in dues or other approved deductions in writing at least thirty (30) calendar days prior to its effective date.

The Union shall certify the current amount of Union deductions.

SECTION 4.2. HOLD HARMLESS

The Union shall hold and save the Employer harmless from any and all responsibility and claims in connection with the collection and disbursement of monies under this Article and

Agreement.
1161159.1

ARTICLE V
HOURS OF WORK AND OVERTIME

SECTION 5.1. REGULAR WORKDAY AND REGULAR WORKWEEK

(A) The regular workday for lead operators is comprised of twelve (12) hour shifts of actual working time. The regular workday for all other bargaining unit employees is comprised of eight (8) hour shifts of actual working time.

(B) The regular workweek for lead operators alternates between thirty-six (36) and forty-eight (48) hours of actual working time, except for authorized leaves, subject to the remaining provisions of this Article. The regular workweek for all other bargaining unit employees is forty (40) hours of actual working time, except for authorized leaves, subject to the remaining provisions of this Article.

(C) Employees may be assigned to be “on call,” which is defined as when an employee is required to respond to a request to work an overtime assignment and is required to work such overtime assignment. Employees “on call” shall be required to mobilize immediately and to report to the work assignment location within sixty (60) minutes of being contacted by a supervisor or a supervisor’s designee, unless otherwise authorized by such supervisor or designee. When assigned to be "on call", the lead operators or other bargaining unit employees will be required to promptly respond when called. An employee's failure, when “on call,” to promptly respond when called is a serious matter and may result in disciplinary action and loss of "on call" status pay in the absence of an explanation deemed acceptable to management. If the Commission exercises its right to end this practice, the parties agree to meet and discuss an alternate scheduling arrangement to address the change.

(D) Nothing in this Article should be construed as a guarantee of hours of work or days of work per day, week or year, for any classification of employees.

(E) In the event that the Employer has a need to change the regular work schedule of a covered employee, the Employer will provide fourteen (14) days of advance notice to the Union, in the absence of an emergency or unanticipated need.

SECTION 5.2. MANDATORY REST PERIOD

Employees will not be allowed to work more than eighteen (18) hours in a twenty-four (24) hour period.

SECTION 5.3. OVERTIME COMPENSATION

The compensation paid employees for overtime work shall be as follows:

(A) Except as provided for in this Agreement, a bargaining unit employee shall be paid at one and one-half (1-1/2) his/her regular hourly rate of pay when in approved pay status (excluding sick time) in excess of forty (40) hours per workweek.

(B) Non-working time in approved pay status (other than sick time) shall be counted as "time worked" for purposes of computing overtime compensation.

SECTION 5.4. OVERTIME DISTRIBUTION

(A) Employees will be expected to perform any reasonable amounts of overtime work when assigned to them.

(B) The Employer will attempt to offer overtime work as equally as appropriate under the circumstances among those bargaining unit employees with the same position title within the Department (*e.g.*, lead for lead, assistant for assistant, technician for technician, etc.) who usually perform the type of work at issue; then within the entire bargaining unit; provided, however, that completion of any overtime assignment does not violate the Employer work rules such as that stated in SECTION 5.2. Notwithstanding the foregoing, the Employer is authorized to continue its historical practice of utilizing non-bargaining unit employees to perform what

may be described as “bargaining unit work,” including what would otherwise be deemed overtime work for bargaining unit members.

(C) The parties recognize that they have an obligation to the community to provide services and that this obligation on occasion may require the working of overtime. To meet that objective, compulsory overtime work may be scheduled in situations when there is a business need to do so; if this occurs, the Employer will provide advance notice when practical.

(D) If the full-time personnel who would have usually worked the overtime refuse it or are unavailable, the Employer may work part-time, temporary or non-bargaining unit personnel on said overtime without violating this Agreement.

(E) No overtime compensation shall be paid more than once for the same hours worked or deemed worked under this or any other Article (*i.e.*, no pyramiding allowed).

SECTION 5.5. EXTENSION OF THE WORK DAY

For any employee required to report to work earlier than his/her regular starting time or to stay at work later than his/her regular quitting time, such earlier or later time shall be added to the regular day's work and paid at his/her regular or overtime rate, if applicable. Alternatively, with the approval of the General Manager (or designee), the employee may leave work prior to the end of the regular shift for that day.

SECTION 5.6. CALL BACK PAY

A “call back” is defined as an official assignment of work which does not continuously precede or follow an employee’s regularly scheduled work hours. Except for an employee who is on-call regularly (*e.g.*, Utility Locator), an employee who has been called back to work after the close of one regularly scheduled work day and before the beginning of the next regularly scheduled work day shall be paid a minimum of three (3) hours of pay from the actual starting

time of work at his/her regular or overtime rate, if applicable. If said three (3) hour minimum overlaps with the next regular scheduled workday, this will be treated as an extension of the workday under SECTION 5.5. If an employee who is regularly on-call is called back to work for an assignment that can be performed remotely (e.g., clearing JULIE tickets), such employee shall perform such work remotely, and shall be compensated at 15 minute increments for such overtime work, but if such employee is required to report to a work site in order to perform such call-back assignment, then the employee shall be entitled to the minimum payment on the same conditions as other bargaining unit members.

SECTION 5.7. ALTERNATING SHIFT ROTATION PREMIUM PAYMENT

A bargaining unit employee is eligible for a "Shift Rotation" premium payment equal to \$1.30 for each hour in approved pay status (other than sick time) pursuant to a regular work schedule that is subject to rotation/alternating days on and off in order to meet the business demands of the Commission. Such "Shift Rotation" premium shall be increased to \$1.40 per applicable hour, effective May 1, 2024, and increased to \$1.50 per applicable hour, effective May 1, 2025. This premium is payable quarterly in arrears. This premium payment is not earned or available if a change in an employee's work schedule occurs due to factors other than an employee's assignment to a permanent work schedule which is subject to regular rotation in order to meet the business demands of the Commission.

ARTICLE VI **SENIORITY**

SECTION 6.1. SENIORITY DEFINED

Except for purposes of layoff, an employee's seniority shall be the period of the employee's most recent continuous regular employment with the Employer. For purposes of layoff, an employee's seniority shall be the period of the employee's most recent employment

with the Employer in the Operations and Instrumentation Department or the Pipeline and Remote Facilities Department in the current title. Employees who are employed as Technician Trainees or Operator Trainees (“Trainees”) shall not establish nor have any seniority, while holding the title of Trainee.

SECTION 6.2. BREAKS IN CONTINUOUS SERVICE

An Employee's continuous service record shall be broken by (a) voluntary resignation, (b) discharge for just cause, (c) retirement, (d) failure to return from a leave of absence as scheduled (without approval or as allowed by law), (e) failure to work for any reason in excess of twelve (12) months (except in the case of layoff after eighteen (18) months), and/or (f) being absent for three (3) consecutive days without reporting off.

SECTION 6.3. SENIORITY LIST

Once each year the Employer shall make available upon a request a bargaining unit seniority list showing the seniority of each employee. The seniority list shall be accepted and final thirty (30) calendar days after it is issued, unless protested by the Union or an employee in writing.

SECTION 6.4. PROBATIONARY EMPLOYEES

An employee is probationary for the first twelve (12) months of employment and can be discharged for any or no reason. A probationary employee shall have no seniority, except as otherwise provided for in this Agreement, until he/she has completed their required probationary period. Upon such completion, he/she shall acquire seniority retroactively from the date of employment. Employees who are employed as Trainees shall be probationary employees the entire time that they are employed as Trainees. If a Trainee is retained as a permanent, non-trainee employee, pursuant to SECTION 23.4 of this Agreement, seniority shall commence

upon assumption of the permanent, non-trainee position. During this period of probation, no grievance may be filed by or on behalf of such employee.

ARTICLE VII LAYOFF AND RECALL

SECTION 7.1. DEFINITION AND NOTICE

A layoff is defined as a reduction in bargaining unit jobs. The Employer shall give the Union at least thirty (30) calendar days' notice of any layoffs, except in emergency or other unanticipated situation(s) wherein such period of notice may be reduced.

SECTION 7.2. GENERAL PROCEDURES

In the event of a layoff, employees shall be laid off in inverse order of seniority as defined in ARTICLE VI provided the employee selected to be retained has the present ability to perform the available work. However, prior to laying off any bargaining unit employees, all seasonal, temporary, probationary, part-time or other non-bargaining unit employees who perform work customarily performed by bargaining unit employees shall be laid off or terminated, as the case may be.

If a more senior employee has the present ability to perform the available work in a lower level job within the Department, the employee may "bump down" the less senior employee in the lower job (based on total time employed with the Commission in that Department) to avoid being laid off. For purposes of this provision, a control room operator is above the level of an assistant operator but below the level of a lead operator.

SECTION 7.3. RECALL OF LAID-OFF EMPLOYEES

The names of laid-off employees shall be placed on a layoff list for eighteen (18) months. Employees shall be recalled in seniority order provided the employee has the present ability to perform the available work as determined by the Employer. No part-time or seasonal employees

will be hired to do bargaining unit work during this time if contrary to this provision. After eighteen (18) months on layoff, an employee shall lose his/her seniority.

ARTICLE VIII
DISCIPLINARY PROCEDURES

SECTION 8.1. EMPLOYEE DISCIPLINE

The Employer agrees with the tenets of progressive and corrective discipline in appropriate cases, and that it shall be imposed only for just cause. When appropriate, progressive discipline may include but not be exclusive of the following progressive steps of priority as determined by management based on all of the facts presented, including the nature of the offense, the employee's overall work record, etc.:

- (A) Oral warning with documentation of such filed in the employee's personnel file,
- (B) Written reprimand with copy of such maintained in the employee's personnel file,
- (C) Suspension without pay with documentation of such maintained in the employee's personnel file,
- (D) Discharge with documentation of such maintained in the employee's personnel file.

Upon request of the employee, a representative of the Union (or designee from bargaining unit if no other representative is present or immediately available) shall be allowed to be present and participate in hearings where there is a reasonable likelihood that disciplinary action may occur. Participation by the Union may not unreasonably delay or postpone any discussion, hearing, or imposition of disciplinary action.

The parties agree and acknowledge that there may be circumstances when progressive discipline is not appropriate and the Employer has the discretion to skip step(s) in the progressive discipline procedure. In some cases, unpaid suspension(s) or even immediate termination (with no prior warnings) may result from even a first offense as determined by management.

SECTION 8.2. RIGHT TO REPRESENTATION

Prior to any investigatory meeting with an employee that reasonably is expected to result in disciplinary action against that employee, the employee shall be informed of his/her rights to Union representation.

ARTICLE IX GRIEVANCE PROCEDURE

SECTION 9.1. GRIEVANCE DEFINED

A grievance is defined as any claim of violation of this Agreement.

SECTION 9.2. PROCESSING OF GRIEVANCE

Grievances shall be processed only by the Union on behalf of an employee or on behalf of a group of employees or itself setting forth name(s) or group(s) of the employee(s). The Grievant or one Grievant representing a group of Grievants may be present at any step of the grievance procedure, and the employee is entitled to Union representation at each and every step of the grievance procedure. The resolution of a grievance filed on behalf of a group of employees shall be made applicable to the appropriate employees within that group.

SECTION 9.3. GRIEVANCE STEPS

STEP ONE: Operations and Instrumentation Department Supervisor or Pipeline and Remote Facilities Department Supervisor

The Union may submit a written grievance to the Operations and Instrumentation Department Supervisor or Pipeline and Remote Facilities Department Supervisor within ten (10) business days of the event giving rise to the grievance or the Union's reasonable knowledge of the events giving rise to the grievance. The Operations and Instrumentation Department Supervisor or Pipeline and Remote Facilities Department Supervisor or his/her designee shall schedule a conference within ten (10) business days of receipt of the grievance to attempt to

adjust the matter. The Operations and Instrumentation Department Supervisor or Pipeline and Remote Facilities Department Supervisor or designee shall submit a written response within ten (10) business days of the conference. If the conference is not scheduled, the Operations and Instrumentation Department Supervisor or Pipeline and Remote Facilities Department Supervisor or designee shall respond to the grievance in writing within ten (10) business days of receipt of the appeal.

STEP TWO: General Manager

If the grievance remains unsettled at Step One, the Union may advance the written grievance to the General Manager (or designee) within ten (10) business days of the response in Step One or when such response was due. The General Manager or his/her designee shall schedule a conference within ten (10) business days of receipt of the grievance to attempt to adjust the matter. The General Manager or designee shall submit a written response within ten (10) business days of the conference. If the conference is not scheduled, the General Manager or designee shall respond to the grievance in writing within ten (10) business days of receipt of the appeal.

STEP THREE: Arbitration

If the grievance remains unsettled after the response in Step Two, the Union may refer the grievance to arbitration within fifteen (15) business days of the Step Two response. The Union shall request the American Arbitration Association to submit a panel of seven (7) Arbitrators. The parties shall alternately strike the names of Arbitrators, taking turns as to the first strike. The person whose name remains shall be the Arbitrator, provided that either party, before striking any names, shall have the right to reject one (1) panel of Arbitrators.

Both parties agree to attempt to arrive at a joint stipulation of the facts and issues as outlined to be submitted to the Arbitrator. Both parties shall have the right to request the Arbitrator to

require the presence of witnesses and/or documents. Each party shall bear the costs of its own witnesses.

Questions of arbitrability shall be decided by the Arbitrator. The Arbitrator shall make a preliminary determination on the question of arbitrability. If it is determined that the matter is arbitrable, the Arbitrator shall then proceed to determine the merits of the dispute. If either party objects, another panel will be requested and another arbitrator selected.

In the conduct of any arbitration under this Article, the rules and procedure governing the conduct of arbitration proceedings of the American Arbitration Association shall control, except where specifically limited by this Article. The Arbitrator shall neither amend, modify, nullify, ignore, add nor subtract from the provisions of this Agreement.

The expenses and fees of the Arbitrator and the cost of the hearing room shall be shared equally by the parties. Nothing in this Article shall preclude the parties from agreeing to the appointment of a permanent Arbitrator(s) during the term of this Agreement or to use the expedited arbitration procedures of the American Arbitration Association.

If either party desires a verbatim record of the proceedings, it may cause such to be made, providing it pays for the record and makes a copy available without charge to the Arbitrator. If the other party desires a copy, it shall equally pay for the expense of such.

The Arbitrator shall render his/her decision in writing to the parties within thirty (30) calendar days following the close of the arbitration hearing or the submission date of briefs, whichever is later. The Arbitrator shall support his/her findings with a written opinion. The decision and opinion shall be based solely on and directed to the issue presented. The award shall clearly direct the parties as to what action(s) must be taken in order to comply with the award.

The decision and award of the arbitration shall be final and binding to the Union, employee(s) and Employer. Such decision shall be within the scope and terms of this Agreement but shall not change any of its terms or conditions.

SECTION 9.4. GRIEVANCE FORMS

The written grievance required under this Article shall be on a form which shall be provided by the Union. It shall contain the basis of the Grievant's complaint, the section(s) of this Agreement that have been allegedly violated, the date of the alleged violations and the relief being sought. The form shall be signed and dated by the Grievant and/or his/her representative. An inaccurate reference to a date or section citation on the form shall not alone be grounds for denial of a grievance provided the grievance was timely filed on the appropriate form. A copy of the form currently in use is attached as Exhibit A.

SECTION 9.5. SETTLEMENTS AND TIME LIMITS

Any grievance not appealed to the next succeeding step in writing and within the appropriate number of business days of the Employer's last answer will be considered settled on the basis of the Employer's last answer and shall not be eligible for further appeal, except that the parties may, in any individual case (except discharge cases), extend this limit by mutual agreement.

ARTICLE X **HOLIDAYS**

SECTION 10.1. GENERAL INFORMATION

The Commission provides eight (8) hours of paid time off to all eligible employees on the following holidays (to be determined by the actual date of the holiday in all cases for eligible bargaining unit employees):

New Year's Day
Martin Luther King, Jr. Day
Presidents' Day
Memorial Day
Independence Day
Labor Day
Veteran's Day
Thanksgiving Day
Day after Thanksgiving Day
Christmas Eve Day
Christmas Day

SECTION 10.2. SPECIFIC APPLICATIONS

(A) If the Employer declares any additional holiday(s) as a Commission paid holiday for employees not covered by a collective bargaining agreement, such date(s) shall be considered holiday(s) for all eligible bargaining unit employees.

(B) All eligible bargaining unit employees shall receive eight (8) hours' pay for each holiday, in addition to the rate of pay provided in subsection (C) below if applicable; provided, however, that part-time and short-term employees, employees on excused absence without pay for the entire payroll week that includes the holiday, and employees on a paid or unpaid leave of absence that includes the holiday are not eligible for holiday pay.

(C) Employees who work on any of these holidays shall be paid one and one-half (1-1/2) times such employee's regular rate for all hours actually worked, up to eight (8) hours, and shall be paid two and one-half (2 ½) times such employee's regular rate for all hours actually worked in excess of eight (8) hours. Employees who are not regularly scheduled to work on a holiday and who actually work on a holiday shall be guaranteed a minimum of four (4) hours at one and one-half (1.5) times such employee's regular rate, in addition to holiday pay pursuant to subsection (B) above, if applicable.

(D) The employee whose shift falls partly within and partly without the holiday (12:01 A.M. to 12:00 midnight) shall receive pay of 1.5 or 2.5 times their regular rate (as determined by subsection (C) above), if at least one-half of the hours of such employee's shift actually worked fall within the actual holiday listed above.

(E) There shall be no pyramiding of holiday overtime payments.

SECTION 10.3. HOLIDAY PAY

In no event, however, shall an eligible employee receive more than eight (8) hours' holiday pay for each holiday listed above.

SECTION 10.4. PERSONAL LEAVE

All eligible employees with 0-25 years of service shall be entitled to sixteen (16) hours off with pay for personal leave, to be used in each calendar year. After completing 25 years of service, employees shall be entitled to sixteen (16) additional hours of personal leave annually, for a total of thirty-two (32) hours annually. Employees shall notify the Employer of his/her intent to use his/her personal leave at least seventy two (72) hours in advance of the personal leave day, when the employee has advance notice of the need to take the personal leave. Personal leave can be used in half-day increments only (except with the prior approval of the General Manager or designee). Unused personal leave cannot be carried over from one calendar year to the next.

ARTICLE XI **VACATIONS**

SECTION 11.1. VACATION ACCRUAL

Eligible bargaining unit employees shall be entitled to paid vacation days in accordance with the following schedule:

Effective 8/17/23:

80 hours/year
120 hours/year
160 hours/year
200 hours/year

0-4 years of service
5th through 10th years of service
11th through 18th years of service
19th and all subsequent years of service

Except as provided below in this Section, shifts of paid vacation leave shall accrue, *pro rata*, at the rates set forth above, but shall be credited for use only at the end of each regular pay period, *pro rata*, at a rate based on twenty-six (26) regular pay periods per year (*e.g.*, vacation begins accruing the first month of employment at the accrual rate for eighty (80) hours per year, and then begins accruing after forty-eight (48) months of employment at the accrual rate of one hundred twenty (120) hours per year, etc.). Vacation leave may be used only after it is credited for use.

SECTION 11.2. VACATION USAGE

Employees are encouraged to use available paid vacation leave for rest, relaxation, and personal pursuits within one (1) year after it is accrued. In the event that accrued vacation leave is not used within such period, an employee may carry unused vacation leave forward for a maximum of one (1) additional year. If an employee's total amount of unused vacation leave reaches an amount equal to two (2) times the employee's total annual vacation leave benefit, no further accrual of vacation leave will be allowed until the employee uses paid vacation leave and brings the accumulated total below the aforesaid limit. Accrual of paid vacation leave will be suspended during any period of unpaid leave, except for military leave. Employees generally may not work and be paid in lieu of taking a vacation.

Earned vacation may be taken in increments of one-half day or more. Employees must provide as much advance notice as possible, but in no event less than seventy two (72) hours, to their supervisor of their desire to schedule vacation time in accordance with the requirements of

the Commission. In the event that two (2) or more employees request the same vacation dates and the Commission cannot grant all of the requests, preference generally will be given on the basis of the employees' length of service if requested prior to the year in which the vacation will be taken; otherwise preference generally will be given in the order in which the requests are received. However, the Commission reserves the right to approve or change scheduled vacations depending on Commission needs.

SECTION 11.3. VACATION PAY AT TERMINATION

Upon termination of employment, employees will be paid for unused vacation leave that has been accrued in accordance with this Agreement through the date of termination.

ARTICLE XII **SICK LEAVE**

SECTION 12.1. SICK LEAVE ACCRUAL

The Commission provides paid sick leave to all full-time employees. Paid sick leave may be used for an employee's own sickness, injury, childbirth, disability, or hospitalization, or for the sickness, injury, disability or hospitalization of a person in the employee's immediate family. Immediate family for sick leave purposes means the employee's spouse, children (adopted and step), and parents. Paid sick leave also may be used for appointments with doctors, dentists or other healthcare providers. However, employees are expected to make all reasonable efforts to schedule such appointments outside of their normal working hours. Paid sick leave may be used by non-exempt employees in one half (1/2) hour increments.

Paid sick leave is credited to eligible employees at the rate of one (1) eight (8)-hour shift for each full month of service and will accumulate to a maximum of one hundred twenty (120) eight (8)-hour shifts. Paid sick leave cannot be taken in advance of earning the time.

SECTION 12.2. SICK LEAVE USAGE

Paid sick leave is a benefit provided by the Commission, for the purposes set forth in Section 12.1 of this Agreement. Paid sick leave may be withheld pending the submission of proof of illness in the form of a physician statement verifying an illness, injury or disability for the dates of paid sick leave requested. The Commission may request at any time proof of illness, especially where a pattern of abuse is present or in cases of excessive or chronic absenteeism.

Before taking paid sick leave, employees must provide their supervisor with notice as far in advance as possible under the circumstances.

Paid sick leave must be used only for legitimate reasons consistent with this Article. Any abuse of this policy may result in non-payment of sick leave benefits and shall be grounds for disciplinary action. Abuse of this policy includes, but is not limited to: (1) the employee's failure to notify his/her supervisor of his/her intention to take paid sick leave when such notice was practicable; (2) the employee's failure to provide documentation for absence, as required; and (3) a continuing pattern of absences prior to or following regularly scheduled holidays, vacation or scheduled days off work.

ARTICLE XIII LEAVES OF ABSENCE

SECTION 13.1. DISABILITY LEAVE

In the event of a temporary disability, an eligible employee may apply for disability payment through the Illinois Municipal Retirement Fund ("IMRF").

SECTION 13.2. DISCRETIONARY LEAVE OF ABSENCE

An eligible employee can petition the General Manager (or designee) for a special leave of absence. Such leave of absence is without pay, seniority accrual or fringe benefits. A leave may be granted for good cause only if approved in advance by the General Manager (or

designee).

The Commission will continue to provide Commission paid medical insurance for eligible employees on unpaid personal leave on the same basis as if an active employee and, at the employee's sole expense, for his or her dependents, for a period of thirty (30) calendar days or for such period as is permitted by the Commission's medical insurance plan in effect from time to time, whichever is shorter.

SECTION 13.3. BEREAVEMENT LEAVE

In the event of a death in an eligible employee's "immediate family," such employee shall be entitled to a leave of absence up to a maximum of three (3) consecutive days including the day of the funeral. Where death occurs and the funeral is to be held out of Illinois and beyond the States contiguous thereto, the employee shall be entitled to a maximum of five (5) consecutive days including the day of the funeral. During such leave, an employee shall receive his/her regular straight time pay for such time as she/he is required to be away from work during his/her regularly scheduled hours of work (but not to exceed eight (8) hours per day).

The employee's "immediate family" shall be defined as: mother, father, husband, wife, brother or sister (including step or half), son or daughter (including step or adopted), father-in-law, mother-in-law, daughter-in-law, son-in-law, sister-in-law, brother-in-law, grandparent, grandchild, grandparent-in-law, court-appointed legal guardian, and a person for whom the employee is a court-appointed legal guardian. The Employer may, at its option, require the employee to submit satisfactory proof of death and/or proof of the relationship of the deceased to the employee.

SECTION 13.4. JURY DUTY/WITNESS LEAVE

An eligible employee whose service on a jury occurs during hours that the employee would have been regularly scheduled to work shall receive the difference between the amount the employee received for jury duty service and the amount employee would have earned in his/her regular base pay for the time spent in jury duty. The employee is required to immediately notify his/her supervisor of the need for jury duty time off.

The Commission also provides employees with paid time off to comply with a subpoena issued on behalf of the Commission (or by any party in a matter directly involving the Commission or the employee's employment with the Commission), provided the employee is not a party or third party beneficiary in the case.

SECTION 13.5. MILITARY LEAVE

The Employer shall comply with all federal and state laws regarding military leave.

SECTION 13.6. VICTIM'S ECONOMIC SECURITY AND SAFETY LEAVE

Eligible employees who are victims of domestic or sexual violence, or have a family or household member who is a victim of domestic or sexual violence, are permitted to take up to twelve (12) weeks of unpaid leave during any rolling twelve (12) month period as required by law. The eligibility requirements and time off benefits available under this Section will be construed in accordance with the law.

SECTION 13.7. BLOOD DONATION LEAVE

Eligible employees who have been employed by the Commission for at least six (6) months shall receive up to one (1) hour of paid leave every fifty-six (56) calendar days to donate blood as required by law. However, employees may take leave only after obtaining approval from their supervisor. The eligibility requirements and time off benefits available under this

Section will be construed in accordance with the law.

SECTION 13.8. WAIVER OF PAID LEAVE FOR ALL WORKERS ACT

In consideration of the Employer agreeing to provide paid sick leave, vacation leave, personal leave, and bereavement leave, bargaining unit employees hereby waive the paid leave provided by the Paid Leave for All Workers Act (820 ILCS 192/1 *et seq.*) and all provisions of said Act.

ARTICLE XIV **HEALTH INSURANCE**

The Employer shall provide health insurance through the Commission's group health insurance plan for eligible full-time employees and their eligible family members on the same basis and subject to the same terms, co-payment(s) of premiums, eligibility requirements and plan design or coverage changes as the other employees of the Commission who are not covered by a collective bargaining agreement (including any revisions thereto adopted by the Commission during the term of this Agreement). The cost of the program shall be shared by the Employer and employees in the same amount as the Commission's employees who are not covered by a collective bargaining agreement. The Commission may alter the plan coverage and premium payments for cost containment purposes after providing advance notice to the Union.

ARTICLE XV **EMPLOYEE TRAINING AND EDUCATION**

With the approval of the General Manager (or designee), eligible bargaining unit employees who voluntarily participate in an education program that is directly related to the type of responsibilities that the employee is regularly assigned to perform for the Commission, shall be eligible for tuition reimbursement in accordance with the then applicable policy in effect at the Commission in the published Personnel Manual. This benefit is only available, however, in

the event that the General Manager (or designee) approves the benefit and the benefit is funded by the Commission in the applicable budget year when the reimbursement is sought and the course is taken.

ARTICLE XVI SAFETY

SECTION 16.1. COMPLIANCE WITH LAWS

In order to maintain safe working conditions, the Employer and all covered employees shall comply with all laws applicable to the Commission's operations concerning the safety of employees and visitors of the Commission.

SECTION 16.2. UNSAFE CONDITIONS

Employees who reasonably and justifiably believe that their safety and health are in imminent danger of serious bodily harm due to an alleged unsafe working condition, equipment or vehicle, shall immediately inform their supervisor who shall have the responsibility to determine what action, if any, should be taken, including whether or not the job assignment should be discontinued if appropriate.

ARTICLE XVII LABOR-MANAGEMENT MEETINGS

SECTION 17.1. LABOR-MANAGEMENT CONFERENCES

The Union and the Employer mutually agree that in the interest of efficient management and harmonious employee relations, meetings shall be held between Union and Employer representatives when appropriate. Such meetings shall be scheduled within one (1) week of either party submitting an agenda to the other or at a time mutually agreed upon by the parties, and shall be limited to:

- (A) Discussion of the implementation and general administration of this Agreement;
- (B) A sharing of general information of interest to the parties;
- (C) The identification of possible health and safety concerns.

A Union representative may attend these meetings. The Employer may assign appropriate management personnel to attend.

SECTION 17.2. PURPOSE

It is expressly understood and agreed that such meetings shall be exclusive of the grievance procedure. Such meeting shall be chaired by the Employer representative and there shall be no loss of wages for attendance by affected bargaining unit employees. Grievances and arbitrations shall not be discussed at such meetings.

ARTICLE XVIII SUBCONTRACTING

It is the general policy of the Commission to continue to utilize its employees to perform available work which they are qualified to perform. However, the Employer reserves the right to contract out any work it deems necessary in the exercise of its business judgment. The Employer agrees to provide the Union advance notice in the event it elects to contract out bargaining unit work which is regularly performed by the covered employees.

ARTICLE XIX UNIFORMS AND EQUIPMENT

The Employer shall provide all employees with Commission required items of protective clothing, uniforms, shoes/boots and other safety gear, at no expense to the employee.

ARTICLE XX PERSONNEL RECORDS

SECTION 20.1. RIGHT OF INSPECTION AND COPIES

An employee will be granted the right to inspect his/her personnel records and make

copies thereof in accordance with the Illinois Personnel Record Review Act; provided, however, that nothing in this ARTICLE XX can be the basis of a grievance under this Agreement.

SECTION 20.2. DISCIPLINE ACTION IN PERSONNEL FILE

No disciplinary action will be used against an employee in the progressive discipline procedure if it is more than two (2) years old; the only exception is a disciplinary action for harassment and/or violence which may be used for future discipline determinations for an indefinite period of time.

ARTICLE XXI NO STRIKE / NO LOCKOUT

SECTION 21.1. NO STRIKE/SLOWDOWN

During the term of this Agreement, neither the Union nor any officers, agents, designees or employees of the Employer shall instigate, promote, sponsor, engage or participate in, or condone any strike of any kind, including but not limited to sympathy strikes, work slowdowns, sick outs, concerted stoppages of work, concerted refusals to work overtime, picketing, or any other intentional interruption or disruption of the operation of the Commission, regardless of the reason for doing so.

Any or all of the employees who violate any of the provisions of this Article may be subject to discipline or discharge by the Commission. Each employee who holds the position of officer or representative of the Union occupies a position of special trust and responsibility in maintaining and bringing about compliance with the provisions of this Article. In addition, in the event of a violation of this Section of this Article, the Union agrees to inform its members of their obligations under this Agreement and to direct them to return to work.

SECTION 21.2. NO LOCKOUT

The Commission will not lock out any employees during the term of this Agreement as a result of a labor dispute with the Union.

SECTION 21.3. PENALTY

The only matter which may be made the subject of a grievance concerning disciplinary action imposed for an alleged violation of SECTION 21.1 above is whether or not the employee actually engaged in such prohibited conduct. The failure to confer a penalty in any instance is not a waiver of such right in any other instance nor is it a precedent.

SECTION 21.4. JUDICIAL RESTRAINT

Nothing contained herein shall preclude the Commission or the Union from obtaining judicial restraint and damages in the event the other party violates this Article.

ARTICLE XXII NON-DISCRIMINATION

Both the Employer and the Union agree not to discriminate against any employee on the basis of race, sex, creed, religion, color, sexual orientation, marital or parental status, age, national origin, political affiliation and/or beliefs, or other non-merit factors. Rights of employees pursuant to this Article are not exclusive and shall be inclusive of any and all other remedies available to them by law.

The Employer and the Union agree that no employee shall be discriminated against, intimidated, restrained or coerced in the exercise of any rights granted by this Agreement, or on account of membership or non-membership in, or lawful activities on behalf of, the Union.

ARTICLE XXIII
WAGES

SECTION 23.1. STEP UP PAY

When an employee is designated by the General Manager (or designee) in writing to work in a higher classification for more than twenty (20) working days, the employee shall be compensated with an additional five percent (5%) of their current rate while in that position.

SECTION 23.2. MERIT BASED ADJUSTMENTS

(A) The following merit based wage adjustments will be provided to eligible employees who were or are actively employed on the date of ratification in 2023 and on the following dates in 2024 and 2025, provided the employee satisfied the merit based standards throughout the period at issue:

- | | |
|-------------------|--|
| Effective 5/1/23: | The same percentage wage increases to be approved by the Commission for employees who are not covered by a collective bargaining agreement. ("Me Too" provision) |
| Effective 5/1/24: | The same percentage wage increases to be approved by the Commission for employees who are not covered by a collective bargaining agreement. ("Me Too" provision) |
| Effective 5/1/25: | The same percentage wage increases to be approved by the Commission for employees who are not covered by a collective bargaining agreement. ("Me Too" provision) |

(B) The only portion of the Commission's pay and classification policy which is subject to the grievance and arbitration procedure is the reasonableness of the General Manager's (or designee's) determination, after the ratification date of this Agreement, about an employee's merit under this SECTION 23.2.

SECTION 23.3. MERIT BASED LONGEVITY PAY

(A) Subject to the remaining provisions of this SECTION 23.3, eligible employees will receive a merit based longevity pay increase in the amount(s) indicated below upon

reaching the stated period of "Completed Years of Competent Service," provided the employee has been at or above a "Competent" level of performance, as determined by the General Manager (or designee), for the stated number of years:

<u>Completed Years of Competent Service</u>	<u>Longevity Pay Adjustment (if earned)</u>
3	\$1.10 increase to base wage rate
5	\$1.10 increase to base wage rate
7	\$1.10 increase to base wage rate
10	\$1.10 increase to base wage rate
15	\$1.10 increase to base wage rate
20	\$1.10 increase to base wage rate
25	\$1.10 increase to base wage rate
30	\$1.10 increase to base wage rate
35	\$1.10 increase to base wage rate

(B) In determining whether an employee has met or exceeded a "Competent" level of performance, the Commission will look to the "Overall" rating on annual written performance evaluations, with a rating of "3" or better being deemed "Competent." Any change to the evaluation system shall be discussed with the Union prior to the effective date of implementation if it impacts this SECTION 23.3. The General Manager shall have the authority, in his sole discretion, to adjust an employee's "Completed Years of Competent Service."

(C) The only portion of the Commission's longevity pay system which is subject to the grievance and arbitration procedure is the reasonableness of the General Manager's (or designee's) determination, after the ratification date of this Agreement, about whether an employee has reached a level of "Competent" performance under this SECTION 23.3.

(D) Both parties recognize that the longevity pay system will be renegotiated each time the contract is re-negotiated and there is no guarantee that this longevity pay system will remain in effect in successor or subsequent contract years.

SECTION 23.4. TECHNICIAN TRAINEES AND OPERATOR TRAINEES

The Employer may employ Trainee Technicians (“Technician Trainees”) and/or Trainee Operators (“Operator Trainees”) (jointly, “Trainees”) at the following rates of pay:

- First Year of Service - an hourly rate to be determined by the Employer, based upon the ascertained market hourly rate of pay;
- Second Year of Service - an increase of \$2 per hour above the previous hourly rate;
- Third Year of Service - an increase of \$2 per hour above the previous hourly rate.

Upon completion of three (3) full years of service, a Trainee shall be either retained as a Technician or an Operator, as applicable, at a rate of pay equal to the Employer’s ascertained market hourly rate of pay (considering the Trainee’s education, experience, training and demonstrated level of skills), or shall be laid off pursuant to Section 7.2 of this Agreement, as determined solely by the Employer. Employees who are employed as Trainees shall be probationary employees the entire time that they are employed as Trainees.

SECTION 23.5. ON-CALL PAY

Employees who are assigned by the Employer to be on-call not on a regular basis shall be compensated one (1) hour at their regular hourly rate of pay for each day that they are assigned and perform on-call duties. Employees who are regularly on-call (*e.g.*, Utility Locator) shall be compensated thirty (30) minutes per weekday (Monday-Friday) and one (1) hour per weekend day (Saturday or Sunday) for each day that they are assigned and perform on-call duties.

SECTION 23.6. COMPENSATION FOR CERTIFICATION AND ACCREDITATION

Employees shall receive the same payments as employees who are not covered by a collective bargaining agreement (“Me Too” provision) and as stated in the Personnel Manual, for obtaining an Illinois Certified Water Operator’s license, an NACE certification or a Professional Engineer’s license. With regard to attending training classes, if training is required,

as determined by the Employer, the employee shall be permitted to attend such training during regular work hours and be compensated for such time. Attendance at required training outside of regular work hours shall also be compensated as work hours. In all other cases, employees will not be compensated for attending training outside of their regular work schedule.

ARTICLE XXIV
DRUG AND ALCOHOL POLICY

The Drug and Alcohol Policy, in effect for all bargaining unit employees, will be the same as is then in effect for employees of the Commission who are not covered by a collective bargaining agreement (including revisions thereto). A copy of the Policy currently in effect is attached as Exhibit B.

ARTICLE XXV
FILLING OF VACANCIES

SECTION 25.1. POSTING

The Employer will continue its practice of attempting to fill vacant positions with qualified current employees. Whenever the Employer determines there is a vacancy in an existing job classification that the Employer determines in its discretion needs to be filled or that a new position within the bargaining unit job has been created that the Employer determines in its discretion needs to be filled, a notice of such vacancy shall be posted on the Commission's bulletin boards for five (5) working days. During this period, employees who wish to apply for such vacancy, including employees on layoff, may do so.

SECTION 25.2. FILLING OF VACANCIES

When a vacancy occurs in the bargaining unit that the Employer determines in its discretion needs to be filled, the Employer will fill that vacancy by employing the internal employee on layoff for eighteen (18) months or less who is presently qualified to perform the available work to

management's satisfaction. If no internal employee on layoff for eighteen (18) months or less is qualified, the Employer shall then hire an internal candidate, an external candidate or any other person not covered by this collective bargaining agreement to fill the vacancy based upon the Employer's assessment of each candidate's qualifications skills, performance, and other legitimate, non-discriminatory criteria. Any employee who expresses an interest in an open position will be given due consideration.

ARTICLE XXVI
SAVINGS CLAUSE

If any provision of this Agreement or the application of any such provision should be rendered or declared invalid by any court action, or by reason of any existing or subsequently enacted legislation, the remaining parts or portions of this Agreement shall remain in full force and effect and the subject matter of such invalid provision shall be open to immediate re-negotiation.

ARTICLE XXVII
ENTIRE AGREEMENT

This Agreement, upon ratification, supersedes all prior practices and agreements, whether written or oral, unless expressly stated to the contrary herein, and constitutes the complete and entire agreement between the parties, and concludes collective bargaining for its term unless otherwise expressly provided herein.

The parties acknowledge that, during the negotiations which resulted in this Agreement, each had the unlimited right and opportunity to make demands and proposals with respect to any subject or matter not removed by law from the area of collective bargaining, and that the understandings and agreements arrived at by the parties after the exercise of that right and opportunity are set forth in this Agreement. Therefore, the Commission and the Union, for the

duration of this Agreement, each voluntarily and unqualifiedly waives the right, and each agrees that the other shall not be obligated, to bargain collectively with respect to any subject or matter referred to or covered by this Agreement, including the impact of the Commission's exercise of its rights as set forth herein on wages, hours or terms and conditions of employment, even though specific aspects of such subjects or matters may not have been within the knowledge or contemplation of either or both of the parties at the time they negotiated and signed this Agreement. The Union specifically waives any right it might have to impact bargaining for the life of this Agreement.

ARTICLE XXVIII
TERMINATION

This Agreement shall be effective upon execution in 2023, and shall remain in full force and effect until April 30, 2026, and shall be automatically renewed from year to year thereafter unless either party notifies the other in writing at least ninety (90) days prior to the anniversary date that it desires to modify this Agreement. In the event that such notice is given, negotiations shall begin no later than sixty (60) days prior to the anniversary date.

[SIGNATURE PAGE FOLLOWS IMMEDIATELY]

IN WITNESS WHEREOF, the parties have executed this Agreement this _____ day
of _____, 2023, at the DuPage Water Commission.

INTERNATIONAL UNION OF OPERATING
ENGINEERS LOCAL 399 (AFL-CIO)

DuPAGE WATER COMMISSION

Brian E. Hickey
President/Business Manager

Paul D. May, General Manager

Vincent T. Winters
Recording-Corresponding Secretary

EXHIBIT A
GRIEVANCE FORM

IUOE LOCAL 399
GRIEVANCE

Name of Aggrieved Employee(s): _____

Place of Employment: _____

Contract Provision Allegedly Violated: _____

Date of Violation: _____ Date of Grievance: _____

Grievance presented to: _____ Date _____

FACTS OF THE GRIEVANCE:

RELIEF REQUESTED:

Signature of Aggrieved Employee or Union Representative:

For union rep use only:

Employer representative _____

Employer contact info _____

Status _____

Notes _____

Resolution, withdrawal, other _____

Signature of aggrieved employee _____

Date _____

EXHIBIT B

DRUG AND ALCOHOL POLICY

DRUG/ALCOHOL-FREE WORKPLACE

A. General Policy And Rules

Drug and alcohol use and abuse not only threaten the health of the user, but also create a danger to the life and safety of fellow employees on the job. They also have an adverse effect on the quality of the products and services that we provide and are extremely costly in terms of absenteeism, reduced productivity, and related problems in the workplace. For these and other reasons, the Commission is committed to creating and maintaining a workplace free of drugs and alcohol.

Consistent with the foregoing, the Commission has adopted the following rules regarding drugs and alcohol. All employees are required to abide by these rules as a condition of their employment with the Commission:

1. The manufacture, distribution, dispensation, sale, possession, or use of alcohol, illegal drugs, or controlled substances while on duty or on Commission property is absolutely prohibited and will subject employees to immediate discharge. Employees who are impaired by or under the influence of alcohol, illegal drugs, or controlled substances, or who have any of the same present in their bodily systems, while on the Commission's property, while on duty, or while operating a vehicle or machine leased or owned by the Commission, also will be subject to discharge.
2. Off-the-job, illegal manufacture, distribution, dispensation, sale, possession, or use of illegal drugs or controlled substances may adversely affect an employee's job performance, the safety of other employees and the public, and the public's trust in the Commission and its ability to provide quality services. Accordingly, such conduct also will subject employees to disciplinary action, up to and including immediate discharge.
3. Employees taking a prescribed drug or controlled substance must maintain the same in the original container identifying the drug or substance, dosage, date of prescription, name of the person for whom it was prescribed, and authorizing physician. Employees also must review with their supervisor or the General Manager any work restrictions that should be observed while taking the prescribed drug or substance.
4. Employees are encouraged to report known violations of these rules directly to their supervisor or the General Manager. The Commission will use its best efforts to protect the anonymity of all employees involved and will treat the information as confidential.

5. Employees who recognize that they have a drug and/or alcohol problem are encouraged to voluntarily seek medical or other professional assistance to correct the problem. No employee will be disciplined or discharged for seeking such professional assistance. However, while seeking such assistance, the employee must continue to observe and comply with all Commission policies and rules, including those relating to the use and possession of drugs and alcohol. The employee therefore will not be insulated from disciplinary action, up to and including discharge, for violation of the Commission's policies and rules merely because he or she is seeking professional assistance or participating in a drug and/or alcohol rehabilitation program.
6. Employees must notify the General Manager of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction.

B. Definitions

The following definitions apply for purposes of the Commission's drug/alcohol policy and rules:

1. The terms "drugs," "illegal drugs," and "controlled substances" include controlled substances as defined in the federal Controlled Substances Act (21 U.S.C. § 812 *et seq.*) and the Illinois Controlled Substances Act (720 ILCS 570/100 *et seq.*), and cannabis as defined in the Illinois Cannabis Control Act (720 ILCS 550/1 *et seq.*). The terms specifically include, but are not limited to, marijuana, cocaine, PCP, heroin, LSD, amphetamines, and barbiturates.
2. The term "Commission property" includes, but is not limited to, all Commission offices, work areas, lunch or break rooms, rest rooms, parking lots, buildings and grounds, vehicles, desks, and lockers, wherever located, which are owned, leased, or operated by the Commission, or which are used by employees in connection with the performance of their duties on behalf of the Commission.
3. The term "conviction" means a finding of guilt, including a plea of *nolo contendere*, or imposition of a sentence or both, by any judicial body charged with determining violations of federal or state criminal drug statutes.
4. The term "criminal drug statute" means a criminal statute involving the manufacture, distribution, sale, possession, or use of any controlled substance.

C. Drug and Alcohol Testing

In keeping with the Commission's commitment to safety, employees may be required to provide blood, urine, or other body substance samples for testing to determine the use of alcohol or drugs. Employees may be required to submit to alcohol or drug testing in any of the following situations:

1. Post-accident. Any employee who is involved in any accident while on duty, whether on or off the Commission's premises, may be asked to provide a body substance sample.
2. Reasonable Suspicion. Any employee demonstrating significant and observable changes in performance, appearance, behavior, speech, or other characteristics providing reasonable suspicion of the influence of alcohol or drugs may be asked to provide a body substance sample.
3. Random Testing. Any employee holding a safety-sensitive position may, at any time and on a random basis, be asked to provide a body substance sample. Any employee who has tested positive on any alcohol or drug test, and who is allowed to return to work following such test, may, at any time during the 12-month period following such return, be asked to provide a body substance sample.

The Commission may, in its sole discretion and in addition to any disciplinary action, require an employee who has tested positive on any alcohol or drug test to participate in an approved alcohol or drug counseling or rehabilitation program as a condition to being allowed to return to work.



Resolution #: R-49-23

Account: N/A

Approvals: *Author / Manager / Finance / Admin*

PDM - CAP PDM

REQUEST FOR BOARD ACTION

Date: 9/11/2023

Description: **Authorize staff to provide draft DWC/Customer Contract to DWC Customers and to schedule Joint Meetings as required by Section 16 of the current Customer Contract**

Agenda Section: Administration Committee

Originating Department: Administration

The term of the existing DWC/Customer contract will end on February 24, 2024, and the term of the existing DWC/Chicago contract will end on March 19, 2024.

DWC has been working earnestly for several years to engage the contractual parties in productive negotiations so that both contracts are acted upon at the necessary time to avoid a contractual lapse. Relative to the DWC/Customer contract, DWC staff, legal counsel, and a steering committee of municipal officials has recently completed preparation of the document for the contract renewal, which is now recommended for approval by all parties.

However, prior to any action by the DWC Board of Commissioners, it is necessary to facilitate a rather complex sequence of events as prescribed by Section 16 of the existing DWC/Customer Contract. These events include scheduling "Joint Meetings" of the customers to review 1) the proposed DWC/Customer Contract, and 2) recommended action on the DWC/Chicago contract. Following the Joint Meetings, each municipality must undertake individual municipal legislative activities to provide DWC with the requisite documentation prior to final consideration and action by the DWC Board of Commissioners, which is targeted for December 2023, with a backup date of January, 2024.

Each municipality will be a direct party to the Customer contract and will have a designated signature line accordingly. DWC will hold a Joint Meeting on September 28, 2023 to present the DWC/Customer contract, as required by Section 16 of the current contract. Relative to the DWC/Chicago contract, the municipalities will not be a signatory, but will need to provide a resolution concurring with the recommended action which is presented by the DWC. DWC/Chicago contract negotiations continue in earnest concurrently with advancement of the Alternative Source Water Project. Updates on both will be provided at the October 19, 2023 DWC Board of Commissioners meeting.

DWC has undertaken a communications initiative to ensure that all parties are informed as to the necessary steps and their various responsibilities in the same. Attached support documents provide additional details as to the necessary tasks, which are summarized in the following matrix:

DWC Water Contracts Sequencing Matrix:

<u>Date</u>	<u>Action</u>	<u>Responsible Party</u>
9/28/2023	DWC/Customer Contract [Joint Meeting #1]	DWC / Municipalities
9/28/2023	Notice provided for second Joint meeting	DWC
10/19/2023*	Alternative Source Water Presentation	DWC / Consultants
10/31/2023	DWC/Chicago Contract [Joint Meeting#2]	DWC / Municipalities
9/28/23 – 12/8/23	Municipal Board Customer contract approval	Municipalities
11/1/23 – 12/8/23	Municipal Board Chicago contract consent	Municipalities
12/8 - 12/21/2023	Customer contract municipal signatures	DWC/Municipalities
12/21/2023*	DWC Board - Customer contract approval	DWC
12/21/2023*	DWC Board - Chicago contract action	DWC

* *DWC Board meeting*

Recommended Motion:

it is recommended that Resolution R-49-23 be approved authorizing staff to release the draft DWC/Customer Contract to DWC Customers, and to schedule two Joint Meetings as required by Section 16 of the current DWC/Customer contract.

DUPAGE WATER COMMISSION

RESOLUTION NO. R-49-23

A RESOLUTION AUTHORIZING STAFF TO DISTRIBUTE THE DRAFT DWC/CUSTOMER CONTRACT AND
SCHEDULE JOINT MEETINGS AS PRESCRIBED BY SECTION 16 OF THE CURRENT WATER SUPPLY
CONTRACT

WHEREAS, the Commission was formed and exists pursuant to 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., for the purpose of securing an adequate source and supply of water for its customers; and

WHEREAS, the current DuPage Water Commission Water Purchase and Sale Contract between DWC and current customers term ends on February 24, 2024; and

WHEREAS, Section 16 of the current Water Purchase and Sale Contract prescribes a procedure for modification of the Customer Contract, which requires the scheduling of a Joint Meeting to consider modifications to the DWC Customer Contract, notice of which must be provided no less than 30 days, and no more than 60 days prior to the proposed meeting; and

WHEREAS, DWC has assembled a steering group of municipal customer representatives to participate with DWC staff and legal counsel in preparation of a Water Purchase and Sale Contract for the term ending February 24, 2064, which document is now recommended for approval by all parties; and

WHEREAS, the Municipalities party to the DWC/Customer Contract must undertake individual municipal legislative activities to authorize the DWC/Customer contract for the term ending February 24, 2064, with each customer party individually approving and executing the Water Purchase and Sale contract before action by the DuPage Water Commission Board of Commissioners; and

WHEREAS, the DuPage Water Commission Water Supply Contract with the City of Chicago term ends on March 19, 2024; and

WHEREAS, Section 16 of the current Water Purchase and Sale Contract prescribes a procedure for modification of the Chicago Water Supply Contract, which requires the scheduling of a Joint Meeting to

consider modifications to the Chicago Water Supply Contract, notice of which must be provided no less than 30 days, and no more than 60 days prior to the proposed meeting; and

WHEREAS, DWC is 1) exploring an alternative solution to obtaining Lake Michigan water and at the same time, 2) in discussions and negotiations with the City of Chicago for a new water supply agreement or extension of the current Chicago Water Supply contract; and

WHEREAS, the Charter Municipalities party to the DWC/Customer Contract must undertake individual municipal legislative activities in accordance with Section 16 of the current DWC/Customer Contract, which requires the affirmative vote of $\frac{3}{4}$ of the charter customers to authorize the recommended action relative to a Chicago Water Supply Contract modification or extension.

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

SECTION ONE: Staff is authorized and directed to provide the proposed Water Purchase and Sale Contract with a term ending February 24, 2064 to the customers party to the contract, for consideration and individual legislative action, seeking approval of the same.

SECTION TWO: Staff is authorized and directed to schedule a Joint Meeting for consideration of the proposed DWC/Customer Water Purchase and Sale Contract in accordance with Section 16 of the current Water Purchase and Sale Contract, and to participate in any activities necessary to facilitate effective communication and municipal legislative processing of the same.

SECTION THREE: Staff is authorized and directed to schedule a Joint Meeting for consideration of the proposed DWC/Chicago Water Supply Contract in accordance with Section 16 of the current Water Purchase and Sale Contract, and to communicate the direction provided by the DWC Board of Commissioners relative to extension or modification of the same, including participation in any activities necessary to facilitate effective communication and municipal concurrence by $\frac{3}{4}$ of the DWC Charter Customers.

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

	Aye	Nay	Absent	Abstain
Bouckaert, D.				
Cuzzone, N.				
Fennell, J.				
Healy, J.				
Novotny, D.				
Pruyn, J.				
Romano, K.				
Rush, K.				
Russo, D.				
Saverino, F.				
Suess, P.				
Van Vooren, D.				
Zay, J.				

ADOPTED THIS _____ DAY OF _____, 2023.

James F. Zay, Chairman

ATTEST:

Danna Mundall, Clerk

Board/Resolutions/2022/R-49-23.docx

EXHIBIT 1

DELETE PAGE IF NO ATTACHMENT



MEMORANDUM

To: DWC Municipal Customers, Mayors & Managers
From: Paul D. May, DuPage Water Commission General Manager
Date: 8/28/2023
Subject: **DWC Strategic Initiatives & Contracts Status Update**

As the process for the DWC/Customer Contract advances, DWC wishes to take the opportunity to provide an update on strategic objectives and present a summary of required activities relative to the contract approval process. There will be several DWC communication events which will be scheduled to assist with communication relative to these items, including joint meetings on 9/28 and 10/31.

Please note that the prescribed sequencing of required activities relative to the DWC/Customer and DWC/Chicago contract presents a logistically challenging sequence of events to ensure that both contracts remain fully authorized at all times, and that adequate time is allotted for the various municipal, DWC, and City of Chicago legislative processes to be completed in the requisite order. This memorandum seeks to provide greater clarity relative to these events.

Required Municipal Board Legislative Activities:

It will be necessary for each municipal board to vote on two DWC-related items:

- 1) DWC/Customer Contract (*presented by DWC at the 9/28 Joint Meeting*), and;
- 2) DWC/Chicago Contract (*presented by DWC at the 10/31 Joint meeting*)

Each municipality will be a direct party to the Customer contract and will have a designated signature line accordingly. DWC will hold a Joint Meeting on September 28 to present the DWC/Customer contract, as required by Section 16 of the current contract. The status of the DWC customer contract is described in greater detail separately in this memorandum.

Relative to the DWC/Chicago contract, the municipalities will not be a signatory, but will need to provide a resolution concurring with the recommended action which is presented by the DWC at the October 31th Joint Meeting. The status of this item is also described in greater detail separately in this memorandum.

It is anticipated that municipalities may desire to act on both required activities at one meeting; therefore, DWC has prepared a matrix of sequenced activities which will present the opportunity to do so in November - but will be dependent upon the unique legislative process of each community. Following, please see the anticipated sequence of activities.

DWC Water Contracts Sequencing Matrix:

<u>Date</u>	<u>Action</u>	<u>Responsible Party</u>
8/28/2023	Registered notice of Joint Meeting mailed	DWC
9/22/2023	IML Conference communication event	DWC
9/28/2023	DWC/Customer Contract [Joint Meeting #1]	DWC / Municipalities
9/28/2023	Notice provided for second Joint meeting	DWC
10/19/2023*	Alternative Source Water Presentation	DWC / Consultants
10/31/2023	DWC/Chicago Contract [Joint Meeting#2]	DWC / Municipalities
9/28/23 – 12/8/23	Municipal Board Customer contract approval	Municipalities
11/1/23 – 12/8/23	Municipal Board Chicago contract consent	Municipalities
12/8 - 12/21/2023	Customer contract municipal signatures	DWC/Municipalities
12/21/2023*	DWC Board - Customer contract approval	DWC
12/21/2023*	DWC Board - Chicago contract action	DWC

* *DWC Board meeting*

Following, please find a summary of current strategic initiatives, including detailed status of the contract negotiations as well as the alternative source water concept.

DWC / Customer Contract:

The DWC/Customer contract expires on February 28, 2024. Due to the number of governmental bodies which are party to the contract it is not practicable to engage the 28 governmental bodies in separate individual negotiations. Rather, a steering group of 8 municipal representatives was assembled to participate in preparation of the new DWC/Customer contract, assisted by the legal staff from the City of Naperville and the DuPage County States attorney.

Procedurally, it will be necessary to facilitate compliance with the process prescribed in Section 16 of the current contract, and to provide adequate time for municipalities to schedule individual legislative processes - which may include review by a subcommittee, or a first and second reading procedure. It is also anticipated that some municipalities may hold only one meeting in November due to the Thanksgiving holiday.

A memorandum provided separately describes the targeted dates and sequence of events, which will begin with a Joint Meeting of the governing bodies at the DWC on September 28th to present the contract. Following that meeting, municipalities will commence their legislative procedures with the objective of providing all municipal authorizations by early December. If the municipal (and private) signatories can authorize the contract by the DWC’s December 21 Board meeting, the contract will be fully executed at that time, with a backup date of January 18, 2024.

DWC / Chicago Contract:

The DWC/Chicago contract expires on March 19, 2024. DWC has been earnestly attempting to engage the City of Chicago in meaningful negotiations for several years, but very little progress was made with the former City of Chicago administration. While the new Chicago administration has been more engaged, it remains likely that a favorable contract will not be formalized prior to the expiration date of the current contract.

In particular, DWC has taken the positions that 1) the lower-rate “Cost-of-Service” commodity costing methodology established in the Joliet contract, should be included in the DWC contract effective immediately; and 2) DWC should be granted operational control and ownership of the Lexington Pumping facility (which was built by DWC and serves only DWC - but is under the control of Chicago in the existing contract). A satisfactory solution has not been agreed to by Chicago relative to either of these priorities. While we will continue to negotiate with Chicago in good faith, it is prudent to consider alternatives, should a satisfactory conclusion to negotiations not be possible.

Absent negotiation of a suitable agreement, DWC would consider extending the contract unilaterally for a period 10+ years. The current contract provides the DWC with the authority to extend the current contract for no less than 10 years. DWC could therefore extend the contract under the current terms and continue to negotiate with the City during that period of time.

In the event that another water purchaser (e.g. Joliet) receives water at a lower rate during that time, DWC would enforce our current favored nations clause for parity relative to rate and methodology. Additionally, the length of the Chicago contract extension could be established to facilitate construction of a new source water system should that alternative prove most favorable (see following alternative source water project summary).

In a manner similar to the process prescribed for the DWC/Customer contract, any action on the DWC/Chicago contract will require a rather complex sequence of events, including participation by the governing bodies of the DWC Customer municipalities. At minimum, this process will require the assembly of a Joint Meeting for discussion of the proposed action on the Chicago contract, followed by a municipal legislative process which must result in approval of the proposed action by ¾ of the DWC charter customer’s municipal boards.

Therefore, this process will include the following steps: 1) joint meeting of DWC customers with minimum 30 days notice, 2) municipal process to approve resolutions authorizing the proposed action on the Chicago contract, 3) authorization of the action by the DWC Board, and 4) notice of and/or approval of the action by the City of Chicago.

Alternative Source Water Project:

The conclusion of the existing Chicago contract presents an opportunity to consider the future of water supply for DuPage County and the larger suburban region. Due to commodity cost rate escalation from the City of Chicago and the absence of governance participation in the critical source water supply, DWC commenced an initiative in 2022 to study alternative supplies of Lake Michigan source water.

The initial study was completed in April, 2023 at which time a presentation was made to the DWC Board of Commissioners. The report indicated that it is technically feasible and financially viable to construct a new source water system which would be owned and operated by DWC and potentially other suburban partners. The initial study identified the “North” route as likely most

preferable, and recommended that following activities include engagement with other regional water wholesalers to determine if a partnership would be possible; through which the source water infrastructure would be jointly owned by participating suburban water agencies, essentially replacing the commodity service currently provided by Chicago. A partnership would increase the scale of the project, but the cost would be shared by more consumers, likely resulting in lower water rates when compared with DWC acting alone.

DWC therefore began engaging the Northwest Suburban Municipal Joint Action Water Agency (NSMJAWA) and the Northwest Water Commission (NWC), and both agencies expressed a desire to participate in further consideration of a source water project. DWC then directed consulting engineering firm, Carollo Inc, to update the report to evaluate the “North” route with partner agencies NSMJAWA and NWC. This report is now being completed, and a following engineering validation study will be performed by engineering firm Burns & McDonnell, and a financial validation study and strategy document will be performed by Raftelis, Inc.

The results of these studies will be presented to the DWC Board of Commissioners at the October 19, 2023 Board meeting, at which time details will be provided relative to project scope, cost, schedule, and financial implications - including the projected rate impacts. This meeting will be open to the public, and interested parties are encouraged to attend. Following the meeting, summary study information can be made available to DWC municipalities.

It should be noted that the October meeting is not intended to result in a decision regarding the source water project; rather to inform the DWC Board relative to the whether an alternative source water project presents a favorable alternative compared to a long-term Chicago contract. If so, it will be recommended that the project be advanced for further study and consideration. The results of the study may also inform the DWC Board relative to the desired length of the Chicago contract extension.

DWC Communication Enhancement Events:

As described above, there are many strategic initiatives and relatively complex activities underway with the DWC, customers, and partners agencies.

DWC appreciates the engagement and collaboration of the Customer Steering Committee relative to the DWC/Customer Contract, and will be focusing on enhanced outreach and engagement over the next several months. In particular, please consider attending the following, and of course feel free to reach out at any time with questions.

- 9/22/2023 IML Conference communication event (*invitations pending*)
- 9/28/2023 DWC/Customer Contract [Joint Meeting #1]
- 10/19/2023 Alternative Source Water Presentation
- 10/31/2023 DWC/Chicago Contract [Joint Meeting #2]



August 28, 2023

RE: DuPage Water Commission / Customer Water Contract Extension [JOINT MEETING]

Dear Mayor,

As you are likely aware, the DuPage Water Commission/Customer Contract will expire on February 24, 2024. Prior to that date, it is necessary for each municipal governing body to approve a contract extension, followed by the DuPage Water Commission Board of Commissioners.

Municipal Steering Committee & Legal Review:

There are 28 governing bodies that are signatories to the contract; therefore, it is not practicable to engage in individual contract negotiations with each municipality. For this reason, a steering group comprised of eight municipal representatives was assembled to represent the municipalities in preparation of the contract, which will become the water supply contract for the next 40-year period.

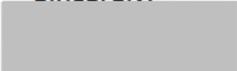
The objective of this collaboration was to ensure the document provides as much continuity with the previous contract as possible, while removing sections which no longer applied (primarily regarding the original system construction). The municipal legal review for the document was performed concurrently by both the DuPage County States Attorney and the Naperville City Attorney.

This process has now been concluded with all parties recommending approval of the contract extension (Steering Committee, DuPage County States Attorney, Naperville City Attorney, DWC). Following separately by e-mail transfer, please find a copy of the proposed contract as well as a procedural memorandum and ordinance template.

Lastly, pursuant to Section 16 of the current contract, a Joint Meeting of all governing bodies must be held to provide a venue for the discussion of the proposed contract extension – a proxy representative may attend on your behalf. During the meeting, DWC will also provide an update relative to other ongoing initiatives including the Chicago water contract and an alternative source water project. The Joint Meeting is scheduled at the following time:

DWC/Customer Water Supply Contract Joint Meeting of Governing Bodies
9:00 AM September 28, 2023, DWC Public Meeting Room
600 E. Butterfield Road, Elmhurst, IL 60126

Sincerely,



James F. Zay
Chairman

CE: Village Manager
File

DU PAGE WATER COMMISSION
Counties of DuPage, Cook, Kane and Will, Illinois

WATER PURCHASE AND SALE CONTRACT

Between

The DuPage Water Commission

and

Contract Customers

DuPAGE WATER COMMISSION
COUNTIES OF DuPAGE, COOK, KANE AND WILL ILLINOIS

AND

VILLAGE OF ADDISON
VILLAGE OF BARTLETT
VILLAGE OF BENSENVILLE
VILLAGE OF BLOOMINGDALE
VILLAGE OF CAROL STREAM
VILLAGE OF CLARENDON HILLS
CITY OF DARIEN
VILLAGE OF DOWNERS GROVE
COUNTY OF DUPAGE
CITY OF ELMHURST
VILLAGE OF GLENDALE HEIGHTS
VILLAGE OF GLEN ELLYN
VILLAGE OF HINSDALE
VILLAGE OF ITASCA
VILLAGE OF LISLE
VILLAGE OF LOMBARD
CITY OF NAPERVILLE
VILLAGE OF OAK BROOK
CITY OF OAKBROOK TERRACE
VILLAGE OF ROSELLE
VILLAGE OF VILLA PARK
VILLAGE OF WESTMONT
CITY OF WHEATON
VILLAGE OF WILLOWBROOK
VILLAGE OF WINFIELD
CITY OF WOOD DALE
VILLAGE OF WOODRIDGE
ILLINOIS AMERICAN WATER
ARGONNE NATIONAL LABORATORY
AQUA ILLINOIS

WATER PURCHASE AND SALE CONTRACT
DATED AS OF _____, ____

WATER PURCHASE AND SALE CONTRACT

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 - (f) Commission Covenant to Operate Properly

- Section 9. Additional Contract Customer Covenants
- (a) Maintain and Operate Unit System
 - (b) Rate Covenant
 - (c) Segregate Revenues
 - (d) Future Subordination of Revenue Bond Lien
 - (e) General Covenant to Operate Properly
 - (f) Accounting and Audit
 - (g) Maintain Ownership of Unit System and Properties
 - (h) Insurance
 - (i) Budget and Appropriations
 - (j) Continue to Serve
 - (k) Maintain Water Allocation
 - (l) Combining or Separating Unit System Accounts
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Section 10. Election as to Water Purchase Requirements

Section 11. Intentionally Omitted

- Section 12. Subsequent and Other Contracts
 - (a) No Contract With Rate More Favorable
 - (b) Occasional Service Only Except to Contract Customers
 - (c) Subsequent Contract Terms
- Section 13. Force Majeure
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- Section 15. Contract Customer's Obligation Unconditional
- Section 16. Modification of this Contract or of the Water Supply Contract
- Section 17. Non-Assignability
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- Section 19. Mutual Cooperation in Issuance of Obligations
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- Section 21. Commission Cooperative Arrangements with Other Water Suppliers
- Section 22. Notices and Evidence of Actions
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- Section 24. Effective Date and Term
- Section 25. Governing Law; Superseder
- Section 26. Venue
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SIGNATURES

EXHIBIT 1 Map

DuPAGE WATER COMMISSION
COUNTIES OF DuPAGE, COOK, KANE AND WILL, ILLINOIS
WATER PURCHASE AND SALE CONTRACT

This Water Purchase and Sale Contract, dated as of XX, by and between the DuPage Water Commission, Counties of DuPage, Cook and Will, Illinois (the "Commission"), a county water commission and public corporation under Division 135 of Article 11 of the Illinois Municipal Code, 65 ILCS 5/11-135-1 *et seq.*, and the Water Commission Act of 1985, 70 ILCS 3720/1 *et seq.* (collectively, the "Acts"), and each of the following units of local government and private water providers in the State of Illinois:

Unit of Local Government

Village of Addison	Village of Lisle
Village of Bartlett	Village of Lombard
Village of Bensenville	City of Naperville
Village of Bloomingdale	Village of Oak Brook
Village of Carol Stream	City of Oakbrook Terrace
Village of Clarendon Hills	Village of Roselle
City of Darien	Village of Villa Park
Village of Downers Grove	Village of Westmont
County of DuPage	City of Wheaton
City of Elmhurst	Village of Willowbrook
Village of Glendale Heights	Village of Winfield
Village of Glen Ellyn	City of Wood Dale
Village of Hinsdale	Village of Woodridge
Village of Itasca	

Private Utilities

Illinois American Water
Argonne National Laboratory
Aqua Illinois

WITNESSETH:

WHEREAS, the Commission has been organized under said division and act (collectively, the "Act") to supply water within its territorial limits; and

WHEREAS, the aforementioned units of local government (the "Contract Customers" as hereafter defined) have each executed counterparts of this Contract and are authorized under the Act to receive potable water from Lake Michigan ("Lake Water" as hereafter defined) through the instrumentality of the Commission and, by executing this Contract are enabling the Commission to construct and complete its waterworks system (the "Waterworks System" as hereafter defined); and

WHEREAS, the Contract Customers each have a waterworks system (a "Unit System" as hereafter defined) and have each received or may properly petition to receive from the State of Illinois Department of Natural Resources, Office of Water Resources, a "Water Allocation" as hereafter defined; and

WHEREAS, the Commission has entered into a contract to purchase Lake Water sufficient to meet the water supply needs of the Commission and the Contract Customers and others (the "Water Supply Contract" as hereafter defined); and

WHEREAS, the Commission proposes to issue and sell its "Bonds" as hereafter defined from time to time during the term of this Contract in sufficient amounts for the payment of: "Cost of the Project" as hereafter defined; and

WHEREAS, the Bonds will be issued from time to time by the Commission pursuant to a "Bond Resolution" as hereafter defined; and

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

WHEREAS, by the execution of this Contract, its Customers are surrendering none of their respective rights to the ownership and operation of their respective Unit Systems, except as expressly limited to this Contract, nor is the Commission surrendering any of its rights to the ownership and operation of its Waterworks System, but all expressly assert their continued right to operate such systems; and

WHEREAS, it is known to its Customers that the Commission may use this Contract as the basis for obtaining loans from time to time to be evidenced by the issuance of the Bonds and for payment of the principal of and premium, if any, and interest on the Bonds and as the means for the payment of its maintenance and operating expenses; and for the establishment and maintenance of accounts and reserves for such purposes as may be required in the Bond Resolution authorizing issuance of Bonds or authorized by applicable statutes; and

WHEREAS, its Customers recognize that the Commission may in the future enter into contracts with other "Subsequent Customers" as hereafter defined and other customers as may be served from time to time who have Water Allocations; and

WHEREAS, the Commission, in Article VI, Section 7.b of its By-Laws, requires a greater than majority vote containing a certain composition of Commissioners to validate certain motions, resolutions or ordinances; and the Contract Customers enter into this Contract in reliance upon the continuation of procedural rules of the Commission as set forth in said Article VI, Section 7.b which grant this vote and composition; and

WHEREAS, this Contract also contains certain requirements for the nature and composition of the vote of the Commission required to effectuate certain actions relating to the contractual rights of the Contract Customers herein; and such Contract Customers execute this Contract in reliance upon the continuation of such requirements for the term of this Contract; and

WHEREAS, the Contract Customers have entered into this Contract in reliance upon Section 2 (j) of the Water Commission Act of 1985 which provides that units of local government may enter into contracts for the supply of Lake Water with the Commission in contemplation of and reliance upon the pledge of the State of Illinois that no subsequent legislation would impair or limit the power or ability of a County Water Commission or a unit of local government fully to carry out the terms of any contract for the supply of Lake Water; and, in particular, the rights of the Contract Customers and the obligations of the Commission under this Contract are intended by the Contract Customers and acknowledged by the Commission to be subject to such pledge and agreement of the State of Illinois;

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

The preambles hereto are hereby incorporated herein by reference, as if set out in full. Section numbers and captions are for reference and convenience only and do not expand or limit the meaning as contained in the text of this Contract. A definition in the singular may be used in the plural, and vice-versa.

Section 1. Definitions. The following words and phrases shall have the following meanings when used in this Contract, unless the context clearly indicates a different meaning is intended.

“Aggregate Costs” means Operation and Maintenance Costs, Fixed Costs and Underconsumption Costs, collectively, as herein defined.

“Bonds” means all of the Commission’s obligations which are payable from the revenues of the Waterworks System, whether in the form of bonds, notes, or other evidences of indebtedness, in whatever original principal amount, together with any such additional revenue obligations authorized by statute to be issued by the Commission from time to time and refunding revenue obligations issued to refund other such obligations.

“Bond Resolution” means the Commission’s bond resolution or bond resolutions or bond ordinance or bond ordinances under which the Commission will authorize the issuance of and issue Bonds.

“Charter Customers” means the units of local government that executed the original contract between the Commission and its customers dated June 11, 1986.

“Commission” means the DuPage Water Commission, Counties of DuPage, Cook, Kane and Will, Illinois.

“Contract” means this Contract.

“Contract Customers” collectively means Charter Customers and any other entity that has executed a contract with the Commission to receive Lake Michigan Water from the Commission and wholesale it to the public prior to the date of this Contract.

“Cost of the Project” means, with respect to a Project, all costs of the Project, including costs of the acquisition of necessary lands, easements, and rights-of-way over lands and waters; the erection, construction, rehabilitation, repair and replacement of pumping, storage or other facilities, and the installation of mains and pipelines; costs of financing and administration during any period of acquisition, erection, construction, rehabilitation, repair, replacement or installation, as aforesaid; costs of repayment of such interim indebtedness as may be incurred for such costs, including administrative expenses prior to issuance of Bonds for a Project; and costs for such other purposes, including without limitation reasonable reserves and working capital, as may be determined by the Commission.

“Customer” means any customer purchasing water from the Commission.

“Fiscal Year” means the fiscal year of the Commission.

“Fixed Costs” means an amount sufficient, at all times, to pay the principal of and premium, if any, and interest on Bonds, to provide reserves required therefor, to provide an adequate depreciation fund for the Waterworks System, to comply with the covenants of the Bond Resolution, and to pay reasonable capital costs necessary to carry out the corporate purposes and powers of the Commission; and except as any of the above are included in Operations and Maintenance Costs.

“Full Water Requirements” means, with respect to a Customer, the amount of water necessary from time to time to meet the potable water requirements of all then current customers served by the Unit System of such Customer (including municipal use where applicable) whether within or without the corporate limits or applicable service area of such Customer.

“Lake Water” means potable, filtered water drawn from Lake Michigan.

“Minimum Take or Pay Requirement” means a requirement that a certain minimum amount of Lake Water from the Waterworks System will be taken or, if not taken, will be paid for on the same basis as if taken.

“Operations and Maintenance Costs” means amounts payable under the Water Supply Contract, but not including Underconsumption Costs except as provided in Section 10 of this Contract, and similar water supply contracts, and all expenses incurred in the administration, operation and maintenance of the Waterworks System and the accumulation of reserves related to payment of said costs. Upon the adoption of a Bond Resolution by the Commission in connection with the sale of Bonds, Operation and Maintenance Costs payable under this Contract shall in any month at least be equal to the amount required to be deposited in that month into the operation and maintenance fund or account created under the Bond Resolution.

“Project” means any acquisition or construction for the provision of Lake Water related to the Waterworks System including initial acquisition and construction thereof and all future improvements or extensions, acquisition, construction, repair, maintenance or replacement thereof.

“Subsequent Customer” means a customer of the Waterworks System which has a Water Allocation, is not a Contract Customer and is served pursuant to a Subsequent Contract executed after the Effective Date of this contract.

“Subsequent Contract” means a contract which provides for a Customer to take its Full Water Requirements from the Waterworks System or contains a Minimum Take or Pay Requirement and which contract further provides for storage and other requirements, terms of payment (expressly subject to the following sentence), Force Majeure and Commission Defaults substantially the same as Sections 3, 6, 13, 14, and 15 hereof (which provisions may relate to a Full Water Requirements agreement or a Minimum Take or Pay Requirement agreement as the case may be). The rate or charges for Lake Water may be higher than those provided herein, and only the terms of payment need be substantially the same.

“Trustee” means the trustee provided in the Bond Resolution.

“Underconsumer” means, for any given year, a Contract Customer which takes less Lake Water in such year than its Water Allocation times 365 times the Underconsumption Ratio for such year.

“Underconsumption” means the amount by which the amount of Lake Water actually taken by a Contract Customer is less than the Underconsumption Ratio times such customer’s Water Allocation times 365.

“Underconsumption Costs” means any amount which the Commission is obligated to pay under the Water Supply Contract solely by reason of failure to accept delivery of the minimum quantity of Lake Water that the Commission is obligated to purchase under the Water Supply Contract.

“Underconsumption Ratio” means, for any given year, (i) the minimum amount of Lake Water required to be taken by the Commission under the Water Supply Contract divided by (ii) the sum of the Water Allocations of all Contract Customers times 365.

“Unit System” means the waterworks system or combined waterworks and sewerage system (if such systems are combined for financing and accounting purposes) from time to time of a Contract Customer.

“Water Allocation” means, with respect to a Customer, such Customer’s allocation and allowable excess from time to time of Lake Water pursuant to the Level of Lake Michigan Act, as amended from time to time as ordered by the Illinois Department of Natural Resources; or such other amounts of Lake Water as a Customer may lawfully take.

“Water Supply Contract” means the water supply contract, dated March 19, 1984, between the Commission and the City of Chicago, Illinois, as amended, supplemented or extended from time to time, or any alternative water supply agreement.

“Waterworks System” means all the Commission’s facilities, including land, easements, rights-of-way over lands and waters, pumping, storage and other facilities, mains and pipelines acquired and used for the purposes of providing and transmitting Lake Water to Customers which may be modified, amended and supplemented from time to time by the Commission in its sole discretion to serve the Lake Water needs of only those Customers or potential Customers located within the territorial limits of the Commission or within territory which becomes part of “included units” in the Act.

Section 2. Water Supply.

(a) Agreement to Purchase and Sell. Subject to the provisions of this Contract, the Commission shall sell to each Contract Customer and each Contract Customer agrees to purchase from the Commission an amount of Lake Water necessary from time to time to serve its Full Water Requirements. The Commission’s obligation to each Contract Customer, however, to deliver Lake Water hereunder shall be limited to a maximum annual amount equivalent to such Contract Customer’s then current Water Allocation and to a maximum rate of Lake Water in any one hour equal to 1.7 times such Contract Customer’s Water Allocation divided by 24. Further, the Commission’s obligation to each Contract Customer to deliver Lake Water at a maximum hourly rate shall be divided among the connection points, if more than one of each such Contract Customer as provided in the design of the Waterworks System.

(b) Certain Limits on Supply and Commission’s Power to Contract. The Commission shall use its best efforts to furnish Lake Water to the Contract Customers as hereinabove provided, but its obligation hereunder shall be limited by (i) the amount of Lake Water from time to time available to the Commission; (ii) contracts between the Commission and its other Customers; (iii) the capacity of the Waterworks System; and (iv) ordinary transmission loss, including standard metering error, between the

Commission's source of supply and the points of delivery. The Commission shall not enter into contracts with other Customers that would cause the Commission to be obligated to sell Lake Water in excess of the least of (i) Waterworks System capacity, (ii) the maximum amount of Lake Water available under the Water Supply Contract or (iii) an amount which would decrease the amount of Lake Water then being supplied or to be supplied in the future to the Contract Customers.

(c) Emergency or Maintenance Shut-Off. The Commission undertakes to use reasonable care and diligence to provide a constant supply of Lake Water as herein provided for, but reserves the right at any time temporarily to turn off the Lake Water in its mains for emergency and maintenance purposes. The Commission shall give to the Contract Customers notice not less than forty-eight (48) hours in advance of any such turn-off, except that in emergencies it shall give notice which is reasonable under the particular circumstances.

(d) Curtailment; Emergency Use of Other Sources. If it becomes necessary for the Commission to limit its delivery of Lake Water to its Customers for any reason, each Contract Customer shall be entitled to the fullest extent possible to receive during such period of curtailment its pro rata share of Lake Water available as determined by the ratio of its total Lake Water use during the prior Fiscal Year to the sum of Lake Water use during the prior Fiscal Year of all Customers entitled to Lake Water during such period of curtailment. Nothing in this Contract shall be construed to prohibit each Contract Customer from serving its customers in cases of emergency, or when the Commission for whatever reason is unable to meet such Contract Customer's Full Water Requirements, from any source including wells owned by such Contract Customer and maintained for emergency use.

(e) Water Quality. The Commission further undertakes to provide that all Lake Water delivered to the Commission under said contracts shall be of such quality, at the point of delivery to the Commission under said contracts, as to meet the requirements of any Federal, State or local agency as shall have jurisdiction from time to time for the operation of public water supplies. The Commission shall supply each Contract Customer with Lake Water of a quality commensurate with that furnished other Contract Customers, and meeting state and federal water quality standards. The Commission bears no responsibility for the contamination of Lake Water or deterioration of water quality occurring beyond the points of delivery to the Contract Customers.

Section 3. Storage, Delivery, Distribution and Conservation.

(a) Storage. The Water Supply Contract currently requires the Commission to provide for and maintain water storage within the Waterworks System and certain Customer Unit Systems, collectively, of sufficient capacity to store not less than two times the annual average daily water demands (including operable shallow well capacity which may be counted towards meeting up to ten percent (10%) of the storage requirements.) In the event the City of Chicago enforces the minimum water storage standards and thereby requires the Commission to provide additional water storage and

capacity, then this Section will apply. Each Contract Customer agrees to use its best efforts to increase the water storage capacity of its Unit System; but in no event shall a Contract Customer be required to increase the water storage capacity contained in its Unit System (including its operable shallow well capacity which may be counted towards meeting up to ten percent (10%) of its storage requirements) to an amount more than twice the amount of its then annual average daily water demand, less that portion of the Commission's storage capacity in its Waterworks System equal to such Contract Customer's annual average daily water demand divided by the total annual average daily water demands of all Customers (to the extent that such Customers are included as parties for whom storage must be provided and maintained under the provisions of the Water Supply Contract) .

(b) Points of Delivery, Back-Flows, Pressure. The points of delivery shall be defined as the points of outlet where the Lake Water delivered hereunder leaves the Waterworks System and enters a Unit System. These points will be to the lesser of ten feet downstream from the Commission's metering stations or a common dividing wall between the Commission's metering station and the Contract Customer's pressure adjusting or rate control stations. The number and location of connections to each Contract Customer's system are shown on Exhibit 1. Each Contract Customer shall receive its supply of Lake Water downstream of the Commission's metering stations at pressures that will vary from time to time. Each point of delivery shall have a pressure adjusting or rate control station. Each Contract Customer is responsible for the siting, design, construction, operation, maintenance and replacement of the pressure adjusting or rate control stations supplied by Contract Customer to convey water from the Waterworks System into the Unit System.

Future construction and modification of plans and specifications of the pressure increasing/reducing stations shall be submitted to the Commission for review and approval, which shall not be unreasonably withheld.

Each Contract Customer's operation of its pressure adjusting or rate control stations shall not cause surges or back-flows into the Waterworks System nor shall the operation of the Customer's pressure adjusting or rate control facilities cause the Waterworks System pressure to drop below 20 psi. The Commission shall not be responsible for any damage to the Unit System caused by design, operation or maintenance of the Customer's connection facilities to the Waterworks System.

(c) Contract Customer to Maintain Water Quality and Unit System and to Prevent Waste. Each Contract Customer agrees to operate its Unit System from the points of delivery on to the consumer in such a manner as at no time to place the Commission and the Waterworks System in jeopardy of failing to meet the regulations of any agency or governmental authority having jurisdiction for its operation of public water supplies. Each Contract Customer also agrees to notify the Commission as promptly as possible of all emergency and other conditions which may directly or indirectly affect the quantity or quality of the Lake Water received hereunder or the Waterworks System.

Section 4. Measuring Equipment.

(a) Commission to Supply Equipment, Official Record. The Commission shall furnish, install, own, operate, maintain, repair and replace, at its own expense, at the points of delivery the necessary equipment and devices of a type meeting the standards of the American Waterworks Association for measuring properly the quantity of Lake Water delivered under this Contract, together with such above-ground structures as the Commission shall deem necessary to house such equipment and devices. Such meter or meters and other equipment so installed and structures so constructed shall remain the property of the Commission. Such structures and equipment shall be located at sites selected and provided by each Contract Customer, respectively, for Lake Water delivered to it, for such purpose. Such sites shall be subject to review and approval by the Commission, which shall not be unreasonably withheld. Each Contract Customer shall grant to the Commission a property interest in each respective site sufficient to enable the Commission to install, use, operate and maintain such structures and equipment during the term of this Contract; however, each Contract Customer shall be responsible for maintaining the grounds and landscaping, including but not limited to shrubbery and other plantings, located on each site provided. The Commission and each Contract Customer shall have access to such structures and equipment for examination and inspection at all reasonable times, but the reading for billing purposes, calibration and adjustment thereof shall be done only by the employees or agents of the Commission. For the purpose of this Contract, the official record of readings of the meter or meters shall be the journal or other record book of the Commission in its office in which the records of the employees or agents of the Commission who take the readings are or may be transcribed. Upon written request of a Contract Customer, the Commission will give the Contract Customer a copy of such journal or record book, or permit the Contract Customer to have access thereto in the office of the Commission during regular business hours.

(b) Calibration. At least once in each Fiscal Year, the Commission shall calibrate its meters dedicated to measuring Lake Water to a Contract Customer if requested in writing by such Contract Customer to do so, in the presence of a representative of the Contract Customer, and the Commission and such Contract Customer shall jointly observe any adjustments which are made to the meters in case any adjustments shall be necessary, and if any check meters as hereinafter provided for have been installed, such meters shall also be calibrated by the Contract Customer in the presence of a representative of the Commission and the Commission and such Contract Customer shall jointly observe an adjustment in case any adjustment is necessary.

(c) Check Meters. A Contract Customer may, at its option and its own expense, install and operate a check meter to check each meter installed by the Commission, but the measurement of Lake Water for the purpose of this Contract shall be solely by the Commission's meters, except in the cases hereinafter specifically provided to the contrary. All such check meters shall be of standard make and shall be subject at all

reasonable times to inspection and examination by any employee or agent of the Commission, but the calibration and adjustment thereof shall be made only by such Contract Customer, except during any period when a check meter may be used under the provisions hereunder for measuring the amount of water delivered, in which case the calibration and adjustment thereof shall be made by the Commission with like effects as if such check meter or meters had been furnished and installed by the Commission.

(d) Variations between Meters; Reconciliation. Notwithstanding the foregoing, if the Commission or any Contract Customer at any time observes a variation between a delivery meter and a check meter, if any such check meter shall have been installed, or any other evidence of meter malfunctions, such party shall promptly notify the other party and the Commission and such Contract Customer shall then cooperate to procure an immediate calibration test and adjustment of such meter to accuracy and shall jointly observe any such adjustment. The party who discovers such variation shall give the other party notice not less than forty-eight (48) hours prior to the time of all tests of meters (which tests shall be conducted during normal working hours) so that the other party may conveniently have a representative present. If said representative is not present at the time set in such notice, calibration and adjustment may, notwithstanding any other provision of this paragraph, proceed in the absence of said representative. If, upon any test, the percentage of inaccuracy of any meter is found to be in excess of two percent (2%), registration thereof shall be corrected by agreement of the Commission and such Contract Customer based upon the best data available, for a period extending back to the time when such inaccuracy began, if such time is ascertainable, and if such time is not ascertainable, then for a period extending back one-half (1/2) of the time elapsed since the last date of calibration, but in no event further back than a period of 183 calendar days of meter operation. If for any reason any meters are out of service or out of repair so that the amount of Lake Water delivered cannot be ascertained or computed from the reading thereof, the Lake Water delivered during the period such meters are out of service or out of repair shall be deemed to be the registration of any check meter or meters if the same have been installed and are accurately registering. Otherwise, the amount of Lake Water delivered during such period shall be estimated (i) by correcting the error if the percentage of the error is ascertainable by calibration tests of mathematical calculations, or (ii) if the error is not ascertainable by calibration tests or mathematical calculation, by estimating the quantity of delivery by considering deliveries during preceding periods under similar conditions when the meter or meters were registering accurately.

(e) Removal of Commission Metering Station. Within ninety (90) days after the termination of this Contract (absent a failure to renew), the Commission shall at its own expense remove metering equipment and stations from and restore the property of each Contract Customer to which such termination without renewal applies. If the Commission fails to remove and restore, as aforesaid, the Contract Customer affected may elect to enforce its right to same or to take title to such equipment and station.

Section 5. Unit of Measurement. The unit of measurement for Lake Water delivered hereunder shall be gallons of water, U.S. Standard Liquid Measure, and all measuring devices shall, unless the Commission and affected Contract Customer otherwise agree, to be so calibrated. In the event that it should become necessary or desirable to use other units of measurement, the basis of conversion shall be that 7.48 gallons is equivalent to one (1) cubic foot.

Section 6. Prices and Terms of Payment.

(a) Operation and Maintenance Costs; Underconsumption Costs. Each Contract Customer shall pay a share of Operation and Maintenance Costs for each month, which shall be an amount equal to the then current price per 1,000 gallons for Operation and Maintenance Costs times the quantity of Lake Water divided by 1,000 delivered by the Waterworks System to such Contract Customer for such month. At any time no Lake Water is being supplied through the Waterworks System to Contract Customers, each Contract Customer's share of monthly Operation and Maintenance Costs shall be that proportion of those costs which such Contract Customer's Water Allocation bears to the total Water Allocations of all Contract Customers required to make Operation and Maintenance Costs payments during the same period. The Commission may require Subsequent Customers to pay for any month a share of Operation and Maintenance Costs, which share may be based upon a rate or proportion higher than that which is applicable to Contract Customers. Such requirement of a greater share may but need not be applied by the Commission to reduce the shares of said costs payable in any month by the Contract Customers; provided, however, that in no event shall the Commission reduce the shares of Contract Customers by an amount which exceeds the amount that is available due to such greater share being paid by a Subsequent Customer.

Each Underconsumer shall pay its share of Underconsumption Costs as determined and assessed by the Commission after notification of such costs by the City of Chicago. Each Underconsumer's share of Underconsumption Costs for a year shall be equal to the ratio of its Underconsumption to the aggregate Underconsumption of all Underconsumers for such year.

(b) Fixed Costs. Each Contract Customer agrees to pay its share of Fixed Costs for each Fiscal Year, which share shall be payable monthly and shall be that proportion of Fixed Costs which such Contract Customer's Full Water Requirements for the two preceding calendar years prior to such Fiscal Year bears to the sum of the Full Water Requirements or Minimum Take of Pay Requirements, as applicable, of all those Contract Customers for such two preceding calendar years. The Commission may require Subsequent Customers to pay for any month a share of Fixed Costs which is greater than said proportion. Such requirement of a greater share may but need not be applied by the Commission to reduce the shares of said costs payable in any month by the Contract Customers; provided, however, that in no event shall the Commission reduce the shares of Contract Customers by an amount which exceeds the amount that is available due to such greater share being paid by a Subsequent Customer. Prior to

the Commission's delivery of Lake Water to any Contract Customer for two (2) calendar years, each Contract Customer's share of monthly Fixed Costs shall be that portion of Fixed Costs which such Contract Customer's Water Allocation bears to the total Water Allocations of Contract Customers.

(c) Bills and Due Date. The Commission shall notify each Contract Customer of such Contract Customer's share of Aggregate Costs for a month on or before the tenth (10th) day of the following month. The Contract Customer's share of Aggregate Costs for a month shall be due and payable and must be received at the offices of the Commission on or before the tenth day of the month following the month of the Commission's notification. If the Commission provides the notice later than the tenth (10th) day of the month, Contract Customer shall have twenty-eight (28) days from the date of notification to make said payment.

(d) Default Shares. If any Customer shall default in the payment to the Commission of any part of its share of Aggregate Costs, or any part of the payment of its share due pursuant to this subsection 6(d), each Contract Customer agrees to pay a share of the amount so in default to the Commission, which share shall be in the same proportion as such Contract Customer's share of the Aggregate Costs for the month prior to the month of the default bears to the sum of the shares of Aggregate Costs in that month of all Contract Customers obligated to make payments under this subsection 6(d) not in default. A Contract Customer's share of defaulted Aggregate Costs, or such defaulted payment of shares, as the case may be, shall be due and payable twenty-one (21) days after the Commission's written demand therefor. The demand shall include the Commission's calculations of the amount due by the Contract Customer hereunder. If and when the defaulting Customer makes a payment to the Commission of a defaulted amount or interest thereon for which the Contract Customers have made a payment to the Commission under this paragraph, the Commission will pay to each Contract Customer its proportionate share of such amount, including any such interest paid thereon.

(e) Disputed Payments. If a Contract Customer desires to dispute all or any part of any payments under this Agreement, the Contract Customer shall nevertheless pay the full amount of any such payment when due and include with such payment written notification to the Commission that charges are disputed, the grounds for dispute and the amount in dispute.

Upon receipt of notification of dispute, representatives of the Commission shall meet with representatives of the Contract Customer to resolve such dispute. No adjustment or relief on account of any disputed charges shall be made unless disputed charges are the subject of such notice within twenty-one (21) days of receipt by Contract Customer of the bill, or within a reasonable period from the time the Contract Customer knew or should have known of the facts giving the rise to the dispute.

The Commission and the Contract Customer shall promptly attempt and continue efforts to resolve the dispute. In the event that it is determined that the Contract

Customer shall have overpaid, it shall receive a refund with interest at the rate set out in subsection (f).

(f) Interest on Overdue Payments. If a Contract Customer shall fail to make any payment required under this Contract on or before its due date, such Contract Customer shall be in default, and interest on the amount of such payment shall accrue during the period of non-payment at the maximum legal rate payable by an Illinois non-home rule unit, not to exceed the higher of the weighted average effective interest rate on all series of Bonds of the Commission any of which are then outstanding plus two percent (2%) or the prime rate from time to time announced by the largest commercial bank, measured in terms of total assets, located and doing banking business in the State of Illinois, plus five percent (5%), from the date such payment becomes due until paid in full with interest as herein specified. In the event such payment is not made within thirty (30) days from the date such payment becomes due, the Commission may at its option and in its discretion reduce or discontinue delivery of Lake Water to the Contract Customer until the amount due the Commission is paid in full with interest as herein specified. The Commission shall give notice to the Contract Customer not less than twenty (20) days prior to the event of its intention to reduce or discontinue delivery of Lake Water in accordance with this subsection (f) and shall provide the Contract Customer an opportunity for a hearing prior to any reduction or discontinuance. If the Commission reduces or discontinues the delivery of Lake Water under such circumstances, the Contract Customer shall, nevertheless, continue to be liable to pay all charges herein provided for. The rights specified in this subsection shall be in addition to all other rights and remedies available to the Commission at law or in equity for breach of any of the provisions of this Contract.

(g) Security Deposit. If a Contract Customer is in default in any payment due under this Contract and the default is not cured within thirty (30) days after the due date of the defaulted payment, the Commission may, at its option, require such Contract Customer, as a further obligation under this Contract, to deposit as security for the payment of such Contract Customer's obligations hereunder a reasonable amount determined by the Commission. The Contract Customer's compliance with the Commission's demand for a security deposit shall be a condition precedent to the curing of such Contract Customer's default and the restoration of the Lake Water service to such Contract Customer, if abated or reduced by reason of such default. The security deposit or any part thereof may, at the Commission's discretion, be applied to any subsequent default by the Contract Customer in any payments due hereunder. If so applied, the Contract Customer shall provide funds within three (3) business days to restore the security deposit to the amount required by the Commission. At the earliest of the end of the term of this Contract, a term of two (2) years after the curing of the most recent default by the Contract Customer, or at such time that the Commission may in its sole discretion determine, any security deposit shall be returned to the Contract Customer if the Contract Customer has performed all its obligations under this Contract.

(h) Rates to Contract Customers Same. No change in the rates or charges under this Contract for any Contract Customer may be made unless the same change is made for all Contract Customers.

(i) Limitation on Payments; Net Indebtedness of Contract Customers. Notwithstanding any other provisions of this Contract to the contrary, the payments required to be made by each Contract Customer under this Contract shall be required to be made solely from revenues to be derived by such Contract Customer from the operation of its Unit System. This Contract shall not constitute an indebtedness of any Contract Customer within the meaning of any statutory or constitutional limitation.

(j) May Use Other Moneys. Notwithstanding the provisions of Subsection (i) of this Section, the Contract Customers are not prohibited by this Contract from using other available funds to make the payments required by this Contract.

(k) Sole Method for Contract Customers to Enforce Provisions Hereof Against Other Customers. Each Contract Customer acknowledges that its obligations to make payments hereunder are of benefit to each other Contract Customer and to Subsequent Customers as such other Customers' obligations are of benefit to the Contract Customer. Accordingly, each Contract Customer agrees that, in addition to the Commission, Bondholders, a Trustee or other parties by law entitled to enforce the provisions of this Contract, any three (3) or more Subsequent Customers acting together may enforce the provisions of this Section 6, but only if the Commission has not acted to enforce such provisions within ninety (90) days of failure to make a payment hereunder. Any rights any Contract Customer has under this Contract or other contracts with the Commission shall be limited in enforcement as set forth herein.

(l) Beginning of Obligation to Pay. The obligation to make any and all payments under this Contract shall begin the month immediately following the issuance of any Bonds or the obtaining of Lake Water from the Commission, whichever is later.

(m) Provision in Lieu of Water Allocation. At any time when no Water Allocation is in effect for a Customer and reference to a Water Allocation is necessary to give meaning to a term of this Contract, the Water Allocation for such Customer shall be deemed to be such Customer's Full Water Requirements for the then most recently completed calendar year divided by 365.

Section 7. Procedural and Other Limitations; Further Covenants of the Commission. Notwithstanding any other provisions of this Contract, the Contract Customers shall have the rights enumerated within this section and the Commission in its activities shall be obligated in the manner provided in this section.

(a) Procedural Rule. No motion, resolution or ordinance concerning the subjects enumerated below shall be adopted by the Commission except by at least a majority affirmative vote of all of the Commissioners which majority must contain the votes of at least one-third (1/3) of the Commissioners appointed by the County Board

Chairman and forty percent (40%) of the Commissioners appointed by the Mayors as provided in the Act: (1) Approval of individual contracts or a series of contracts related to a single Project in an amount in excess of \$100,000; (2) Setting of rates for the sale of Lake Water to Contract Customers; (3) Borrowing funds; (4) Exercise of eminent domain powers; (5) Employment of the General Manager and Financial Administrator, and managerial and professional consultants; (6) Amendment of the Water Supply Contract or (7) entering into any agreement to provide Lake Michigan Water to a Subsequent Customer.

(b) Lake Water Only. Without the prior approval of the corporate authorities of any Contract Customer affected, the Commission shall not deliver any water to a Contract Customer other than Lake Water. Costs for Lake Water charged by the Commission shall only include Aggregate Costs relating to the purchase and delivery of Lake Water.

(c) Intentionally Omitted.

(d) Covenants to Be Set Out in Bond Ordinance. Any Bond Resolution passed by the Commission shall contain language to the following effect:

Any holder or registered owner of a bond or any of its coupons, in any civil action, mandamus, or other proceeding, may enforce and compel performance of all duties required by law to be performed by the Commission or by any customers of the Commission, including the making of rates and charges, the collecting of sufficient revenue and the application thereof, as provided by applicable law, and including, expressly, all of the terms and provisions of Sections 6, 7 and 16 of the Contract [referring to this Contract].

The parties or persons which make loans of funds to the Commission [by this Bond Resolution] have received the pledge of the State of Illinois that it will not impair or limit the power or ability of the Commission or a unit of local government fully to carry out the terms of any contract for the supply of water entered into by the Commission and a unit of local government for the term of such contract. For purposes of such impairment or limitation, the contracts for the supply of water executed by units of local government and the Commission contain terms and conditions intended by the parties thereto and by the Bondholders to be absolute conditions thereof.

(e) Absolute Conditions. For purposes of the pledge and agreement of the State of Illinois that it will not impair or limit the power or ability of the Commission or the Contract Customers fully to carry out the terms and conditions hereof, all terms and conditions contained herein are intended to be absolute conditions hereof and are agreed to by the parties. It is hereby intended that no change in the Act or other law or regulation subsequent to the date hereof shall affect any of the terms or provisions of this Contract, and neither the Contract Customers nor the Commission, without the

unanimous consent of all of them, shall take any actions under a change in the Act or other law or regulation contrary to the terms and conditions herein.

(f) Emergency Supply. A Contract Customer may contract for a temporary supply of water in case of an emergency from any other unit of local government or any entity.

(g) Governance. For the term of this Contract, the number of Commissioners appointed by the Mayors as provided in the Act shall be not less than one-half (1/2) the total number of Commissioners (excluding, expressly, for purposes of said count, the Chairman).

(h) Retail Sales. The Commission shall not engage in the retail sale or distribution of water to residents or customers of any Contract Customer.

(i) Evidence of Customer Action. Wherever in this Contract the consent or authorization of a Contract Customer or a group of Contract Customers are required, the consent may only be evidenced by a resolution or motion passed by the corporate authorities of the Contract Customer.

(j) Limitation on Funds. No funds received by the Commission from Operation and Maintenance Costs or Fixed Costs payable from Contract Customers may be expended for the planning, construction, operations or maintenance of a waterworks system other than the Waterworks System, or the extension thereof, specified within this Contract.

(k) Certain Budget, Rate Limitation, Notice and Hearing Provisions. Not less than sixty (60) days prior to the beginning of each Fiscal Year, the Commission shall prepare and send to the Contract Customers a tentative budget. Each such budget shall include, among such other items as the Commission may choose, an estimate of Fixed Costs to be payable by each Contract Customer in a stated aggregate dollar amount per month for each and an estimate of Operations and Maintenance Costs in a stated price per 1,000 gallons. The Commission will hold a hearing on such budget, at which the Contract Customers may be heard, and shall give the Contract Customers not less than twenty-one (21) days notice of such hearing. Operations and Maintenance Costs payable in each Fiscal Year shall be determined and assessed by the Commission on a price per 1,000 gallons basis; such price may not exceed the estimate as set forth in the tentative budget unless the Commission shall hold a hearing on such higher price, at which the Contract Customers may be heard, and shall give the Contract Customers not less than twenty-one (21) days' notice of such hearing.

Section 8. Special Conditions and Covenants.

(a) Commission to Build Waterworks System and Supply Lake Water. The Commission shall, subject to the other terms and conditions of this Contract, continually hold itself ready, willing and able to supply Lake Water to any Contract

Customer. The Commission shall also use its best efforts, consistent with its legal obligations to its other Customers and consistent with fair and equitable treatment of all of its Customers, to supply each Contract Customer with such additional amounts of Lake Water as may be from time to time allocated to such Contract Customer over and above its present Water Allocation, but the Commission does not hereby guarantee a supply of such additional amounts.

(b) Title to Lake Water. Title to all Lake Water supplied hereunder shall remain in the Commission to the lesser of the points ten feet (10 ft.) downstream from the Commission's metering stations or a common dividing wall between the Commission's metering station and the Contract Customer's pressure adjusting or rate control stations for each Unit System and thereupon shall pass to such Contract Customer.

(c) Payments Hereunder an Operation Expense of Unit Systems. Obtaining water is an essential item of expense of the Unit Systems. To the fullest extent permitted by law or contract, all of the payments to be made by each Contract Customer hereunder shall constitute operating expenses of the Unit Systems as to any and all revenue bonds of such Contract Customer which are supported in whole or in part by a pledge of the revenues of its Unit System, with the effect that such Contract Customer's obligation to make payments from its water revenues under this Contract has priority over its obligation to make payments of the principal of and premium, if any, and interest on any such bonds which are or will be supported in whole or in part by a pledge of such Unit System revenues. Each Contract Customer shall make all budgetary, emergency and other provisions and appropriations necessary to provide for and authorize the prompt payment by such Contract Customer to the Commission of its shares of Aggregate Costs. The obligations of each Contract Customer under this Contract are further payable from all other accounts of the Unit System of each Contract Customer, respectively, for its shares, in which there are lawfully available funds. In any revenue bond ordinances or resolutions hereafter enacted by a Contract Customer, the priority of lien established pursuant to this Contract shall be expressly provided and set forth in said bond ordinances or resolutions. If legal action is brought against a Contract Customer challenging the priority of such Contract Customer's obligations hereunder over the lien of any revenue bonds supported by a pledge of the revenues of its Unit System, the Commission shall, if requested to do so by such Contract Customer, undertake the defense of the legal action at the Commission's expense.

(d) Commission Insurance. The Commission will carry insurance or maintain self-insurance with respect to the Waterworks System of the kinds and in the amounts which are customarily carried or maintained by parties operating similar properties, including, without limiting the generality of the foregoing, fire and other casualty and public liability insurance or protection. All moneys received for loss under the insurance policies or on deposit as self-insurance reserve funds shall be used in making good the loss or damage in respect of which they were paid except to the extent no longer deemed useful to or profitable in the operation of the Waterworks System, whether by repairing the property damaged or replacing the property destroyed, and provision for making good such loss or damage or replacing the property destroyed

shall be made within a reasonable time from date of loss. The proceeds derived from any and all policies or available from self-insurance reserves for public liability losses shall be used in paying or reimbursing any accounts from which payments for settlements, judgments or expenses were advanced.

(e) Commission to Continue to Serve. The Commission will use its best efforts to continue serving all the Contract Customers.

(f) Commission Covenant to Operate Properly. From time to time, the Commission will take steps reasonably necessary so that the Waterworks System may at all times be operated properly.

Section 9. Additional Contract Customer Covenants. Each Contract Customer further covenants as follows:

(a) Maintain and Operate Unit System. It will own and maintain its Unit System, and all improvements and extensions of its Unit System, in good repair and working order, will operate the same efficiently, and will punctually perform all duties with respect to its Unit System as may be required by the Constitution and laws of the State of Illinois and all other applicable laws and by all resolutions and ordinances of such Contract Customer.

(b) Rate Covenant. It will establish, maintain, revise as necessary and collect, rates and charges for customers of its Unit System as shall be required from time to time to produce revenues at least sufficient (i) to pay all amounts due under this Contract and to pay all other costs of operation and maintenance of its Unit System, (ii) to provide an adequate depreciation fund for its Unit System, (iii) to make all deposits in all funds and accounts required by the terms of resolutions or ordinances authorizing bonds payable from revenues of its Unit System and (iv) to pay the principal of and interest on all bonds of such Contract Customer payable from the revenues of its Unit System. The Commission may not sue to enforce the provisions of this Section as they relate to clauses (ii) through (iv) unless it can show that the ability of the Contract Customer to make the payments set forth in clause (i) is substantially impaired by the inadequacy of said rates and charges. The rates and charges for customers of a Unit System shall not be required, however, to be sufficient to produce amounts required to make payments under this contract so long as available amounts sufficient for making such payments for the next six (6) months or the remainder of such Contract Customer's fiscal year, whichever is longer, shall have been set aside in cash or investments in a separate account in its Unit System Fund designated for the purpose of making payments under this Contract,

(c) Segregate Revenues. It shall provide for the segregation of all revenues of its Unit System in such Unit System Fund and provide for the application of the revenues for the purpose of subsection (b) of this Section. Moneys of a Unit System of a Contract Customer which exceed the obligations of such Contract Customer hereunder may be used for any lawful corporate purposes.

(d) Future Subordination of Revenue Bond Lien. Any resolution or ordinance of the Contract Customer which authorizes the issuance after the date of this Contract of any obligation of the Contract Customer to be paid from revenues of its Unit System will expressly provide that revenues of its Unit System may be used to pay principal of and premium, if any, and interest of those obligations only to the extent that those revenues exceed the amounts required to pay the operation and maintenance expenses of its Unit System including, expressly, all amounts payable from time to time under this Contract.

(e) General Covenant to Operate Properly. From time to time, it will take steps reasonably necessary so that its Unit System may at all times be operated in accordance with industry standards.

(f) Accounting and Audit. It will make and keep proper books and accounts (separate and apart from all other records and accounts of such Contract Customer) in which complete entries shall be made of all transactions relating to its Unit System, and, within two hundred ten (210) days following the close of each fiscal year of such Contract Customer, it will cause the books and accounts of its Unit System to be audited annually by independent certified public accountants, showing the receipts and disbursements on account of its Unit System.

(g) Maintain Ownership of Unit System and Properties. It will continue to own and possess its Unit System and will, within the exercise of reasonable business judgment and in a manner so as not to cause a default hereunder, dispose of property which is part of its Unit System only to the extent that the Commission consents in writing, which consent shall not be unreasonably withheld. This subsection (g) does not prohibit a Contract Customer from selling specific equipment that it considers surplus and that is no longer needed or utilized to operate its Unit System.

(h) Insurance. It will carry insurance or maintain self-insurance with respect to its Unit System of the kinds and in the amounts which are customarily carried or maintained by parties operating similar properties, including, without limiting the generality of the foregoing, fire and other casualty and public liability insurance or protection. All moneys received for loss under the insurance policies or on deposit as self-insurance reserves shall be used in making good the loss or damage in respect of which they were paid except to the extent that the property damaged or lost would be permitted to be disposed of under subsection (g) of this Section, whether by repairing the property damaged or replacing the property destroyed, and provisions for making good such loss or damage or replacing the property destroyed shall be made within a reasonable time from date of loss. The proceeds derived from any and all policies or available from self-insurance reserves for public liability losses shall be used in paying or reimbursing any accounts from which payments for settlements, judgments or expenses were advanced.

(i) Budget and Appropriations. It will adopt a budget or appropriations ordinance for each fiscal year of such Contract Customer, or otherwise in accordance with applicable state laws, provide lawful authority for payment of all sums anticipated to be due to the Commission during such fiscal year.

(j) Continue to Serve. It will use its best efforts to continue serving all customers of its Unit System within its territorial limits which are served as of the date of this Contract.

(k) Maintain Water Allocation. It will use its best efforts to obtain or retain, from time to time, a Water Allocation at least equal to its Full Water Requirements from time to time.

(l) Combining or Separating Unit System Accounts. It may combine its waterworks system with its sewerage system or separate its combined waterworks system and sewerage system into separate systems only on the conditions as follows: (i) the Contract Customer shall provide the Commission with written evidence that the proposed combination or separation will not materially and adversely affect the Contract Customer's ability to comply with all of the terms, conditions and covenants of this Contract; and (ii) if the Commission shall then determine the proposed combination or separation will not materially and adversely affect the Contract Customer's ability to comply with all of the terms conditions and covenants of this Contract, then and only then the Commission shall approve such combination or separation and advise such Contract Customer in writing.

(m) Customer Covenants as to Rate of Withdrawal. Each Contract Customer will take Lake Water at the most uniform and continuous rate of withdrawal practicable.

Section 10. Election as to Water Purchase Requirements. Any Contract Customer electing to take less than its Full Water Requirements, as determined by the Commission, shall pay its pro rata share of the Operations and Maintenance Costs and the Fixed Costs for the period of time during which its Full Water Requirements are not taken. In the event such Contract Customer elects to purchase less than its Full Water Requirements in any year pursuant to this Section, it shall pay a share of Underconsumption Costs, if any, incurred for such year and such Contract Customer's share of such Underconsumption Costs shall be deemed to be Operation and Maintenance Costs under this Contract. The prior sentence shall not be applicable where the Underconsumption is caused by an emergency situation as approved in writing by the highest executive of the Commission and lasts for less than thirty (30) days, Such Contract Customer's share of Operation and Maintenance Costs and Fixed Costs, if any, for the year shall be that proportion of those costs which the Operation and Maintenance Costs and Fixed Costs of such Contract Customer for that year was to the sum of the Operation and Maintenance Costs and Fixed Costs of all Customers for such year.

Section 11. Resale Limitations. Charter Customers shall not resell more than five percent of the water purchased from the Commission *except*: (i) to retail water customers under published rates and charges, without any special contract; or(ii) any contract approved in writing by the Commission, which approval shall be in the sole discretion of the Commission.

Section 12. Subsequent and Other Contracts.

(a) No Contract with Rate More Favorable. The Commission shall not supply Lake Water except pursuant to a written contract. No contract entered into after the Effective Date shall provide rates, charges or terms lower or more favorable to the Subsequent Customer than those provided in this Contract for Contract Customers.

(b) Occasional Service Only Except to Contract Customers. Other than the providing of service to Contract Customers, the Commission shall not contract for a supply of Lake Water to any person except to a Subsequent Customer or for occasional water use. Occasional water use is the use of Lake Water for not more than thirty (30) days during any two-year period.

(c) Subsequent Contract Terms. After the Effective Date, the Commission shall not enter into a contract with any unit of local government or private entities that is not a Contract Customer, unless such contract provides for an equitable and lawful differential rate or charge in the formula for Aggregate Costs which may take into account any pertinent factor and shall take into account each of the factors as follows: (i) the utility rate which would be chargeable by a regulated utility for the proposed service, (ii) replacement cost of the Waterworks System less depreciation and net outstanding Bonds, and (iii) the amount and time of payment of Fixed Costs which would have been payable by the proposed Customer had such Customer become a Contract Customer, plus interest on such costs from the time when they would have been paid, compounded semiannually.

The differential may be satisfied by a lump sum payment or by surcharge for any term of years not longer than the then remaining term of this Contract. The differential shall inure to the benefit of the previous Contract Customers as their interests may appear (that is, those that have borne greater costs shall benefit proportionally greater) in such reasonable manner as the Commission may determine.

The allocation of the benefit so derived among prior Contract Customers shall be made by the Commission only after it has received and reviewed the recommendations of an independent consulting engineer, independent financial consultant and competent attorney, working together, who shall be selected by the Commission from a list of three (3) individuals or firms for each position by the Contract Customers.

For the purpose of making such list of three (3) individuals or firms, the Commission shall call a meeting of only the Contract Customers that are units of local government by giving notice to the Contract Customers as provided in this Contract not less than thirty (30) days prior to a proposed meeting date. The Commission shall convene the meeting, but thereupon the Contract Customers that are units of local government shall elect a presiding officer from among their number. Such meeting may be adjourned from time to time without notice. The majority of Contract Customers that are units of local government present and voting at said meeting shall be empowered to select such individuals or firms. The Commission shall keep the minutes of the meeting.

If the Contract Customers that are units of local government do not act at said meeting or within twenty-one (21) days thereof, the Commission shall proceed to select such persons or firms itself.

If the Commission shall impose the recommended differential, then the differential as imposed shall not be subject to any dispute or claim by any Contract Customer. This provision shall not require the Commission to follow such recommendations.

This entire subsection is qualified by the Commission's legal duty to serve within its territorial limits and to charge for such service fair and equitable rates which are not prohibitive. It is the intent of the Commission in entering into this provision of the Contract to recognize that the Contract Customers that are units of local government, solely, enable the Commission to proceed to construct the Waterworks System, that the units of local government hereinafter referred to need to be induced to become Contract Customers and that this provision is an express inducement, that by its essential design in accordance with good engineering practice, the Waterworks System must be built in many ways sufficient upon initial completion to serve all of said units, but that only those units of local government who become Contract Customers will pay for such from the start of construction.

Section 13. Force Majeure. In case by reason of force majeure event any party hereto shall be rendered unable wholly or in part to carry out its obligation under this Contract, then if such party shall give notice and full particulars of such force majeure event in writing to the other parties within seven (7) days after the occurrence of the event or cause relied on, the obligation of the party giving such notice, so far as it is affected by such force majeure event shall be suspended during the continuance of the inability then claimed, but for no longer period, and any such party shall endeavor to remove or overcome such inability with all reasonable dispatch. The term "force majeure" as employed herein shall mean acts of God, strikes, lockouts or other industrial disturbances, acts of public enemy, orders of any kind of the Government of the United States, of the State of Illinois, or of any civil or military authority, insurrection, riots, epidemics, landslides, lightning, earthquakes, fires, hurricanes, storms, floods, washouts, droughts, arrests, restraints of government and people, civil disturbances, explosions, breakage or accidents to machinery, pipelines, canals, or tunnels, partial or

entire failure of water supply, and inability on the part of the Commission to deliver Lake Water hereunder, or of any Contract Customer to receive Lake Water hereunder, on account of any other causes not reasonably within the control of the party claiming such inability. The settlement of strikes and lockouts shall be entirely within the discretion of the party having the difficulty and that the above requirement that any force majeure events shall be remedied with all reasonable dispatch shall not require the settlement of strikes and lockouts by acceding to the demands of the opposing party or parties when such settlements is unfavorable to it in the judgment of the party having the difficulty. No force majeure event which renders any of the parties unable to perform under this Contract shall relieve a Contract Customer of its obligation to make payments to the Commission as required under Section 6.

Section 14. Commission Defaults. Failure by the Commission to deliver Lake Water to any Contract Customer as required by this Contract or failure of the Commission to perform any other obligation under this Contract and the continuation of that failure to perform for thirty (30) days after written notice from such Contract Customer to the Commission of such failure shall be a default of the Commission under this Contract, unless any such failure is excused pursuant to Section 13 of this Contract. If the Commission defaults under this Contract, the Contract Customer or Contract Customers affected may bring any action against the Commission, including an action for money damage or in equity and actions for mandamus and specific performance of the Commission's obligations to the extent allowed by law. Election of any remedy shall not be a waiver of any other remedy.

Section 15. Contract Customer's Obligation Unconditional. The Contract Customers shall have no right to terminate, cancel or rescind this Contract, no right to withhold from the Commission or the Trustee who is an assignee of the Commission pursuant to Section 17 of this Contract payments due or to become due under this Contract, no right to recover from the Commission or such Trustee amounts previously paid under this Contract unless paid contrary to the provisions of this Contract or law, no right of reduction or set-off against the amounts due or to become due under this Contract, to the Commission or such Trustee, and no lien on any amounts in any fund established by the Commission or such Trustee for any reason or on account of the existence or occurrence of any event, condition or contingency, whether foreseen or unforeseen or foreseeable or unforeseeable by the Contract Customers or the Commission or any other person; including by way of illustration, and not limitation, by reason of the fact that the Waterworks System in whole or in part is not completed, operable or operating; the output of the Waterworks System in whole or in part is suspended, interrupted, interfered with, reduced or curtailed; any party to the Water Supply Contract does not perform in whole or in part thereunder; the Water Allocation of any Customer is modified or terminated or any Customer does not perform in whole or in part under this Contract or any other agreement or instrument; it being the intent hereof that the Contract Customers shall be absolutely and unconditionally obligated to make all payments hereunder. The Commission may issue Bonds in specific reliance on the limitations set forth in this Section with respect to the rights of the Contract Customers.

Section 16. Modification of this Contract or of the Water Supply Contract.

Except for revisions and adjustments otherwise expressly provided for, neither this Contract nor the Water Supply Contract may be changed or modified unless the consent of the Commission and of three-fourths of the Contract Customers shall have been obtained. Such modification may be requested by any party, in which event a joint meeting of representatives of all governing bodies shall be called by the Commission and held not more than sixty (60) days after such request is made and not less than thirty (30) days before the giving of notice of such meeting. At the joint meeting, the requested changes or modifications shall be considered and discussed. No such change or modification may materially impair or adversely affect the ability or obligation of any Contract Customer under the Contract to make payments to the Commission at the times, in the amounts, and with the priority required in order for the Commission timely to meet its obligations under this Contract, the Water Supply Contract, other water purchase or sale contracts of the Commission and the Bond Ordinances/Resolutions, including without limitation the making of all deposits in various funds and accounts created under the Bond Ordinances/Resolutions; or materially impair or adversely affect the ability of the holders of the Bonds or the Trustee, under the Contract or Bond Ordinances/Resolutions, to enforce the terms of the Contract. No such change of modification which will affect the rights and interest of the holders of the Bonds shall be made without the written approval of an authorized representative of the holders of at least seventy percent (70%) of the outstanding Bonds and no such change or modification shall be effective which would cause a violation of any provisions of the Bond Ordinances/Resolutions or any ordinance authorizing bonds of any Contract Customer.

Section 17. Non-Assignability. Except to the extent hereinafter provided, no party shall assign or transfer this Contract or any rights or interests herein without the written consent of three-fourths of the Contract Customers and the Commission. The right to receive all payments which are required to be made by the Contract Customers to the Commission in accordance with the provisions of this Contract may be assigned by the Commission to any Trustee as provided in the Bond Ordinances/Resolutions to secure the payment of the principal of, premium, if any, and interest on the Bonds as those amounts come due, subject to the application of those payments as may be provided in the Bond Ordinances/Resolutions. The Contract Customers will, upon notice of assignment to any such Trustee, make all payments directly to such Trustee. The rights of the Commission to enforce the provisions of this Contract may be assigned to such Trustee and, in such event, the Trustee will have the right to enforce this Contract at law or in equity with or without the further consent or participation of the Commission. The Commission may also retain the right to enforce this Contract.

Section 18. Cooperation in Construction of Commission Water Supply. The Contract Customers shall cooperate with the Commission in the construction and acquisition of the Waterworks System. Each Contract Customer shall grant without charge to the Commission any reasonable required construction easements and any easements necessary for portions of the Waterworks System to be located on such

Contract Customer's property, provided the Commission agrees to restore the easement property in a reasonable manner after construction. Each Contract Customer shall grant the Commission access to its property to the extent reasonably necessary to construct and maintain the Waterworks System.

Section 19. Mutual Cooperation in Issuance of Obligations. Each Contract Customer shall cooperate with the Commission in the issuance of the Bonds, and the Commission shall cooperate with each Contract Customer in the issuance of the Contract Customer's general obligation bonds or revenue bonds of its Unit System. In such connection, each Contract Customer and the Commission will comply with all reasonable requests of each other and will, upon request, do as follows:

- (i) Make available general and financial information about itself in accordance with GAAP;
- (ii) Consent to publication and distribution of its financial information;
- (iii) Certify that general and financial information about it is accurate, does not contain any untrue statement of a material fact and does not omit to state a material fact necessary in order to make the statements in that information, in light of the circumstances under which they were made, not misleading;
- (iv) Make available certified copies of official proceedings;
- (v) Provide reasonable certifications to be used in a transcript of closing documents; and
- (vi) Provide and pay for reasonably requested opinions of counsel as to the validity of its actions taken with respect to and the binding effect of this Contract, title to its Unit System or the Waterworks System, as applicable, pending or threatened litigation which could materially affect its performance hereunder, and other reasonably related opinions.

Section 20. Regulatory Bodies. The parties through this Contract seek to exercise and maintain all sovereign rights granted to them under and through the Constitution and laws of the State of Illinois. This Contract shall be subject to all valid rules, regulations, and laws, applicable hereto passed or promulgated by the United States of America, the State of Illinois, or any governmental body or agency having lawful jurisdiction, or any authorized representative or agency or any of them; provided however, that this clause shall not be construed as waiving the right of either party to challenge the validity of such rule, regulation, or law on any basis, including the impairment of this Contract.

Section 21. Commission Cooperative Arrangements With Other Water Suppliers. Notwithstanding any of the provisions of this Contract, the Commission is not prohibited by this Contract from entering into cooperative arrangements with other

suppliers of Lake Water to provide Lake Water to each other to meet their water needs, provided that these arrangements do not interfere, except in emergencies, with the delivery of Lake Water to the Contract Customers.

Section 22. Notices and Evidence of Actions. All notices or communications provided for herein shall be in writing and shall be delivered to the Contract Customers affected or the Commission either in person or by United States mail, via certified mail, return receipt requested, postage prepaid, addressed to the principal office thereof.

Any action hereunder to be taken by the Commission or any Contract Customer may be evidenced by copy of official proceedings (including pertinent minutes, motions, resolutions, or ordinances) duly certified by the Clerk of such Contract Customer or the Commission.

Section 23. Severability. Should any part, term, or provision of this Contract be determined by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining portions or provisions shall not be affected thereby.

Section 24. Effective Date and Term. This Contract shall be effective when all the parties have executed this Contract (the "Effective Date"). This Contract shall continue in force and effect until February 24, 2064. The Contract Customers and the Commission agree to begin negotiation of a succeeding Water Purchase and Sale Contract not later than five (5) years prior to the end of the term of this Contract.

Section 25. Governing Law; Superseder. This Contract shall be construed exclusively under the applicable laws of the State of Illinois. All other contracts between the Commission and the Contract Customers are hereby superseded and shall be null and void.

Section 26. Venue. Any action brought to enforce the terms of this Contract shall be brought in the Eighteenth Judicial Circuit, DuPage County, Illinois.

Section 27. Execution in Counterparts. This Contract may be executed in several counterparts, each of which shall be deemed to be an original, and all of which shall constitute but one and the same instrument. Any such counterpart may be signed by one or more of the parties hereto so long as each of the parties hereto has signed one or more of such counterparts.

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

VILLAGE OF ADDISON

By _____
Rich Veenstra, Mayor

Date: _____

[SEAL]

Attest:

By _____
Lucille Zucchero, Village Clerk

VILLAGE OF BARTLETT

By _____
Kevin Wallace, President

Date: _____

[SEAL]

Attest:

By _____
Lorna Giles, Village Clerk

VILLAGE OF BENSENVILLE

By _____
Frank DeSimone, President

Date: _____

[SEAL]

Attest:

By _____
Nancy Quinn, Village Clerk

VILLAGE OF BLOOMINGDALE

By _____
Franco A. Coladipietro, President

Date: _____

[SEAL]

Attest:

By _____
Pamela S. Hager, Village Clerk

VILLAGE OF CAROL STREAM

By _____
Frank Saverino, Mayor

Date: _____

[SEAL]

Attest:

By _____
Julia Schwarze, Village Clerk

VILLAGE OF CLARENDON HILLS

By _____
Eric Tech, President

Date: _____

[SEAL]

Attest:

By _____
Lynn B. Dragisic, Village Clerk

CITY OF DARIEN

By _____
Joseph A. Marchese, Mayor

Date: _____

[SEAL]

Attest:

By _____
JoAnne Ragona, City Clerk

VILLAGE OF DOWNERS GROVE

By _____
Robert T. Barnett, Mayor

Date: _____

[SEAL]

Attest:

By _____
Rosa Berardi, Village Clerk

COUNTY OF DUPAGE

By _____
Deborah A. Conroy, Chair

Date: _____

[SEAL]

Attest:

By _____
Jean Kaczmarek, County Clerk

CITY OF ELMHURST

By _____
Scott M. Levin, Mayor

Date: _____

[SEAL]

Attest:

By _____
Jackie Haddad-Tamer, City Clerk

VILLAGE OF GLENDALE HEIGHTS

By _____
Chodri Ma Khokhar, President

Date: _____

[SEAL]

Attest:

By _____
Marie Schmidt, Village Clerk

VILLAGE OF GLEN ELLYN

By _____
Mark Senak, President

Date: _____

[SEAL]

Attest:

By _____
Caren Cosby, Village Clerk

VILLAGE OF HINSDALE

By _____
Thomas K. Cauley, Jr., President

Date: _____

[SEAL]

Attest:

By _____
Emily Tompkins, Village Clerk

VILLAGE OF ITASCA

By _____
Jeff Pruyn, Mayor

Date: _____

[SEAL]

Attest:

By _____
Jody Conidi, Village Clerk

VILLAGE OF LISLE

By _____
Christopher Pecak, Mayor

Date: _____

[SEAL]

Attest:

By _____
Kristy Grau, Village Clerk

VILLAGE OF LOMBARD

By _____
Keith T. Giagnorio, President

Date: _____

[SEAL]

Attest:

By _____
Liz Brezinski, Village Clerk

CITY OF NAPERVILLE

By _____
Scott A. Wehrl, Mayor

Date: _____

[SEAL]

Attest:

By _____
Doug A. Krieger, City Manager

VILLAGE OF OAK BROOK

By _____
Laurence Herman, President

Date: _____

[SEAL]

Attest:

By _____
Netasha Scarpiniti, Village Clerk

CITY OF OAKBROOK TERRACE

By _____
Paul Esposito, Mayor

Date: _____

[SEAL]

Attest:

By _____
Michael Shadley, City Clerk

VILLAGE OF ROSELLE

By _____
David Pileski, Mayor

Date: _____

[SEAL]

Attest:

By _____
Amanda Hausman, Village Clerk

VILLAGE OF VILLA PARK

By _____
Nick Cuzzone, President

Date: _____

[SEAL]

Attest:

By _____
Hosanna Korynecky, Village Clerk

VILLAGE OF WESTMONT

By _____
Ron Gunter, Mayor

Date: _____

[SEAL]

Attest:

By _____
Virginia Szymski, Village Clerk

CITY OF WHEATON

By _____
Philip J. Suess, Mayor

Date: _____

[SEAL]

Attest:

By _____
Andrea Rosedale, City Clerk

VILLAGE OF WILLOWBROOK

By _____
Frank A. Trilla, Mayor

Date: _____

[SEAL]

Attest:

By _____
Deborah A. Hahn, Village Clerk

VILLAGE OF WINFIELD

By _____
Carl Sorgatz, President

Date: _____

[SEAL]

Attest:

By _____
Nicole Cannizzo, Village Clerk

CITY OF WOOD DALE

By _____
Annunziato Pulice, Mayor

Date: _____

[SEAL]

Attest:

By _____
Lynn Curiale, City Clerk

VILLAGE OF WOODRIDGE

By _____
Gina Cunningham, Mayor

Date: _____

[SEAL]

Attest:

By _____
Joseph Heneghan, Village Clerk

Illinois American Water

By _____
President

Date: _____

[SEAL]

Attest:

By _____

Argonne National Laboratory

By _____
Director

Date: _____

[SEAL]

Attest:

By _____

Aqua Illinois, Inc.

By _____
President

Date: _____

[SEAL]

Attest:

By _____

DuPAGE WATER COMMISSION

By _____
Jamez F. Zay, Chairman

Date: _____

[SEAL]

Attest:

By _____
Danna M. Mundall, Clerk

DU PAGE WATER COMMISSION
Counties of DuPage, Cook, [Kane](#) and Will, Illinois

WATER PURCHASE AND SALE CONTRACT

Between

The DuPage Water Commission

and

[Contract](#)~~arter~~ Customers

[ADMINISTRATION/AGREEMENTS/
WTR. PUR.&SALE CONT BTW DWC&CHART. CUST 1986](#)

DuPAGE WATER COMMISSION

COUNTIES OF DuPAGE, COOK, KANE AND WILL ILLINOIS

AND

VILLAGE OF ADDISON
VILLAGE OF BARTLETT
VILLAGE OF BENSENVILLE
VILLAGE OF BLOOMINGDALE
VILLAGE OF CAROL STREAM
~~V~~VILLAGE OF CLARENDON HILLS
CITY OF DARIEN
VILLAGE OF DOWNERS GROVE
COUNTY OF DUPAGE
CITY OF ELMHURST
VILLAGE OF GLENDALE HEIGHTS
VILLAGE OF GLEN ELLYN
VILLAGE OF HINSDALE
VILLAGE OF ITASCA
VILLAGE OF LISLE
VILLAGE OF LOMBARD
CITY OF NAPERVILLE
VILLAGE OF OAK BROOK
CITY OF OAKBROOK TERRACE
VILLAGE OF ROSELLE
VILLAGE OF VILLA PARK
VILLAGE OF WESTMONT
CITY OF WHEATON
VILLAGE OF WILLOWBROOK
VILLAGE OF WINFIELD
CITY OF WOOD DALE
VILLAGE OF WOODRIDGE
ILLINOIS AMERICAN WATER
ARGONNE NATIONAL LABORATORY
AQUA ILLINOIS

WATER PURCHASE AND SALE CONTRACT
DATED AS OF JUNE 11, 1986 _____,

WATER PURCHASE AND SALE CONTRACT

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DuPAGE WATER COMMISSION
COUNTIES OF DuPAGE, COOK, KANE AND WILL, ILLINOIS
WATER PURCHASE AND SALE CONTRACT

This Water Purchase and Sale Contract, dated as of ~~XX~~June 11, 1986, by and between the DuPage Water Commission, Counties of DuPage, Cook and Will, Illinois (the "Commission"), a county water commission and public corporation under Division 135 of Article 11 of the Illinois Municipal Code, 65 ILCS 5/11-135-1 et seq., and the Water Commission Act of 1985, 70 ILCS 3720/1 et seq. (collectively, the "Acts"), and each of the following units of local government and private water providers ~~in~~ the State of Illinois:

Unit of Local Government

Village of Addison	Village of Itasca
<u>Village of Bartlett</u>	Village of Lisle
Village of Bensenville	Village of Lombard
<u>Village of Bartlett</u>	City of Naperville
Village of Bloomingdale	Village of Oak Brook
Village of Carol Stream	City of Oakbrook Terrace
Village of Clarendon Hills	Village of Roselle
City of Darien	Village of Villa Park
<u>County of DuPage</u>	Village of Westmont
Village of Downers Grove	City of Wheaton
<u>County of DuPage</u>	Village of Willowbrook
City of Elmhurst	<u>Village of Winfield</u>
Village of Glendale Heights	City of Wood Dale
Village of Glen Ellyn	Village of Woodridge
Village of Hinsdale	

Private Utilities

Illinois American Water
Argonne National Laboratory
Aqua Illinois

WITNESSETH:

WHEREAS, the Commission has been organized under said division and act (collectively, the "Act") to supply water within its territorial limits; and

WHEREAS, the aforementioned units of local government (the "Contract~~Charter~~ Customers" as hereafter defined) have each executed counterparts of this Contract and are authorized under the Act to receive potable water from Lake Michigan ("Lake Water" as hereafter defined) through the instrumentality of the Commission and, by executing

this Contract are enabling the Commission to construct and complete its waterworks system (the “Waterworks System” as hereafter defined); and

WHEREAS, the ~~Contract~~~~Charter~~ Customers each have a waterworks system (a “Unit System” as hereafter defined) and have each received or may properly petition to receive from the State of Illinois ~~Department of Transportation~~Department of Natural Resources, Office of Water Resources, a “Water Allocation” as hereafter defined; and

WHEREAS, the Commission has entered into a contract ~~with the City of Chicago~~ to purchase Lake Water sufficient to meet the water supply needs of the Commission and the ~~Charter~~Contract Customers and others (the “~~Chicago~~ Water Supply Contract” as hereafter defined); and

WHEREAS, the Commission proposes to issue and sell its “Bonds” as hereafter defined from time to time during the term of this Contract in sufficient amounts for the payment of: ~~Costs~~ of the Project” as hereafter defined; and

WHEREAS, the Bonds will be issued from time to time by the Commission pursuant to a “Bond Resolution” as hereafter defined; and

WHEREAS, pursuant to the Act, Article VII, Section 10 of the Illinois Constitution of 1970, and the Intergovernmental Cooperation ~~Act~~, 5 ILCS 220/1 et seq., as amended, the Commission and ~~its~~the Charter Customers are authorized to enter into this Contract; and

WHEREAS, by the execution of this Contract, ~~its~~the Charter Customers are surrendering none of their respective rights to the ownership and operation of their respective Unit Systems, except as expressly limited to this Contract, nor is the Commission surrendering any of its rights to the ownership and operation of its Waterworks System, but all expressly assert their continued right to operate such systems; and

WHEREAS, it is known to ~~its~~the Charter Customers that the Commission ~~may~~will use this Contract as the basis for obtaining loans from time to time to be evidenced by the issuance of the Bonds and for payment of the principal of and premium, if any, and interest on the Bonds and as the means for the payment of its maintenance and operating expenses; and for the establishment and maintenance of accounts and reserves for such purposes as may be required in the Bond Resolution authorizing issuance of Bonds or authorized by applicable statutes; and

WHEREAS, ~~its~~the Charter Customers recognize that the Commission may in the future enter into contracts with other “Subsequent Customers” as hereafter defined and other customers as may be served from time to time who have Water Allocations; and

~~WHEREAS, certain Charter Customers were members of the Commission as it existed under prior law and previously entered into water purchase contracts (the “Prior~~

~~Contracts” as hereafter defined) with the Commission, which gave them substantial rights not only as contracting parties, but also as voting members of the Commission; and such Charter Customers would not enter into this Contract, which cancels the provisions of the Prior Contracts, unless this Contract retained many of the powers and protections accorded to them in the Prior Contracts; and~~

WHEREAS, the Commission, in Article VI, Section 7.b5-(e) of its By-Laws, requires a greater than majority vote containing a certain composition of Commissioners to validate certain motions, resolutions or ordinances; and the ~~Contract~~ Charter Customers enter into this Contract in reliance upon the continuation of procedural rules of the Commission as set forth in said Article VI, Section 7.b5-(e) which grant this vote and composition; and

WHEREAS, this Contract also contains certain requirements for the nature and composition of the vote of the Commission required to effectuate certain actions relating to the contractual rights of the ~~Contract~~ Charter Customers herein; and such ~~Contract~~ Charter Customers execute this Contract in reliance upon the continuation of such requirements for the term of this Contract; and

WHEREAS, the ~~Contract~~ Charter Customers have entered into this Contract in reliance upon Section 2 (j) of the Water Commission Act of 1985 which provides that units of local government may enter into contracts for the supply of Lake Water with the Commission in contemplation of and reliance upon the pledge of the State of Illinois that no subsequent legislation would impair or limit the power or ability of a County Water Commission or a unit of local government fully to carry out the terms of any contract for the supply of Lake Water; and, in particular, the rights of the ~~Contract~~ Charter Customers and the obligations of the Commission under this Contract are intended by the ~~Contract~~ Charter Customers and acknowledged by the Commission to be subject to such pledge and agreement of the State of Illinois;

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

The preambles hereto are hereby incorporated herein by reference, as if set out in full. Section numbers and captions are for reference and convenience only and do not expand or limit the meaning as contained in the text of this Contract. A definition in the singular may be used in the plural, and vice-versa.

Section 1. Definitions. The following words and phrases shall have the following meanings when used in this Contract, unless the context clearly indicates a different meaning is intended.

~~“Acts” means Division 135 of Article 11, Division 135 of the Illinois Municipal Code, 65 ILCS 5/11 135-1 et seq., and the Water Commission Act of 1985, 70 ILCS 3720/1 et seq.~~

“Aggregate Costs” means Operation and Maintenance Costs, Fixed Costs and Underconsumption Costs, collectively, as herein defined.

“Bonds” means all of the Commission’s obligations which are payable from the revenues of the Waterworks System, whether in the form of bonds, notes, or other evidences of indebtedness, in whatever original principal amount, together with any such additional revenue obligations authorized by statute to be issued by the Commission from time to time and refunding revenue obligations issued to refund other such obligations.

“Bond Resolution” means the Commission’s bond resolution or bond resolutions or bond ordinance or bond ordinances under which the Commission will authorize the issuance of and issue Bonds.

“Charter Customers” means the units of local government that executed the original contract between the Commission and its customers dated June 11, 1986~~named as initial parties hereto in the heading of this Contract and which do properly authorize the execution of and execute a counterpart of this Contract as acceptance hereof and file the same with the Clerk of the Commission on or before the Charter Date as provided in Section 24 hereof.~~

~~“Chicago Water Supply Contract” means the water supply contract, dated March 19, 1984~~December 14, 1983, between the Commission and the City of Chicago, Illinois, as amended, or supplemented or extended from time to time, or any alternative water supply agreement.

“Commission” means the DuPage Water Commission, Counties of DuPage, Cook, Kane and Will, Illinois.

“Contract” means this eContract.

“Contract Customers” collectively means Charter Customers and any other entity that has executed a contract with the Commission to receive Lake Michigan Water from the Commission and wholesale it to the public prior to the date of this Contract~~Subsequent Customers, collectively.~~

“Cost of the Project” means, with respect to a Project, all costs of the Project, including costs of the acquisition of necessary lands, easements, and rights-of-way over lands and waters; the erection, construction, rehabilitation, repair and replacement of pumping, storage or other facilities, and the installation of mains and pipelines; costs of financing and administration during any period of acquisition, erection, construction, rehabilitation, repair, replacement or installation, as aforesaid; costs of repayment of such interim indebtedness as may be incurred for such costs, including administrative expenses prior to issuance of Bonds for a Project; and costs for such other purposes,

including without limitation reasonable reserves and working capital, as may be determined by the Commission.

“Customer” means any customer purchasing water from the Commission, ~~including Contract Customers.~~

“Fiscal Year” means the fiscal year of the Commission.

“Fixed Costs” means an amount sufficient, at all times, to pay the principal of and premium, if any, and interest on Bonds, to provide reserves required therefor, to provide an adequate depreciation fund for the Waterworks System, to comply with the covenants of the Bond Resolution, and to pay reasonable capital costs necessary to carry out the corporate purposes and powers of the Commission; and except as any of the above are included in Operations and Maintenance Costs.

“Full Water Requirements” means, with respect to a Customer, the amount of water necessary from time to time to meet the potable water requirements of all then current customers served by the Unit System of such Customer (including municipal use where applicable) whether within or without the corporation limits or applicable service area of such Customer.

“Lake Water” means potable, filtered water drawn from Lake Michigan.

“Minimum Take or Pay Requirement” means a requirement that a certain minimum amount of Lake Water from the Waterworks System will be taken or, if not taken, will be paid for on the same basis as if taken.

“Operations and Maintenance Costs” means amounts payable under the ~~Chicago~~ Water Supply Contract, but not including Underconsumption Costs except as provided in Section 10 of this Contract, and similar water supply contracts, and all expenses incurred in the administration, operation and maintenance of the Waterworks System and the accumulation of reserves related to payment of said costs. Upon the adoption of a Bond Resolution by the Commission in connection with the sale of Bonds, Operation and Maintenance Costs payable under this Contract shall in any month at least be equal to the amount required to be deposited in that month into the operation and maintenance fund or account created under the Bond Resolution.

~~“Prior Contracts” means the water purchase contracts between the Commission and certain Charter Customers, executed on various dates in the year 1984, providing for a supply of Lake Water.~~

“Project” means any acquisition or construction for the provision of Lake Water related to the Waterworks System including initial acquisition and construction thereof and all future improvements or extensions, acquisition, construction, repair, maintenance or replacement thereof.

“Subsequent Customer” means a customer of the Waterworks System which has a Water Allocation, is not a ~~Contract~~~~Charter~~ Customer and is served pursuant to a Subsequent Contract executed after the Effective Date of this contract.

“Subsequent Contract” means a contract which provides for a Customer to ~~either~~ take its Full Water Requirements from the Waterworks System or contains a Minimum Take or Pay Requirement and which contract further provides for storage and other requirements, terms of payment (expressly subject to the following sentence), Force Majeure and Commission Defaults substantially the same as Sections 3, 6, 13, 14, and 15 hereof (which provisions may relate to a Full Water Requirements agreement ~~of or~~ a Minimum Take or Pay Requirement agreement as the case may be). The rate or charges for Lake Water may be higher than those provided herein, and only the terms of payment need be substantially the same.

“Trustee” means the trustee provided in the Bond Resolution.

“Underconsumer” means, for any given year, a Contract Customer which takes less Lake Water in such year than its Water Allocation times 365 times the Underconsumption Ratio for such year.

“Underconsumption” means the amount by which the amount of Lake Water actually taken by a Contract Customer is less than the Underconsumption Ratio times such customer’s Water Allocation times 365.

“Underconsumption Costs” means any amount which the Commission is obligated to pay under the ~~Chicago~~ Water Supply Contract solely by reason of failure to accept delivery of the minimum quantity of Lake Water that the Commission is obligated to purchase under the ~~Chicago~~ Water Supply Contract.

“Underconsumption Ratio” means, for any given year, ~~(i)~~ the minimum amount of Lake Water required to be taken by the Commission under the ~~Chicago~~ Water Supply Contract divided by (ii) the sum of the Water Allocations of all Contract Customers times 365.

“Unit System” means the waterworks system or combined waterworks and sewerage system (if such systems are combined for financing and accounting purposes) from time to time of a Contract Customer.

“Water Allocation” means, with respect to a Customer, such Customer’s allocation and allowable excess from time to time of Lake Water pursuant to the Level of Lake Michigan Act, as amended from time to time as ordered by the; Illinois Department of ~~Natural Resources~~~~Transportation~~ Administrative Opinion Order Nos. ~~XXLMO 80-1,~~ ~~LMO 80-4~~ and subsequent orders of the State of Illinois Department of Transportation; or such other amounts of Lake Water as a Customer may lawfully take.

“Water Supply Contract” means the water supply contract, dated March 19, 1984, between the Commission and the City of Chicago, Illinois, as amended, ~~θ~~ supplemented or extended from time to time, or any alternative water supply agreement.

“Waterworks System” means all the Commission’s facilities, including land, easements, rights-of-way over lands and waters, pumping, storage and other facilities, mains and pipelines acquired and used for the purposes of providing and transmitting Lake Water ~~from the City of Chicago’s water supply system to Customers substantially in accordance with the plans and project description attached hereto as Exhibit 1. Said Exhibit 1 which~~ may be modified, amended and supplemented from time to time by the Commission in its sole discretion to serve the Lake Water needs of only those Customers or potential Customers located within the territorial limits of the Commission ~~on March 1, 1986, or within territory which by annexation or consolidation becomes part of municipalities defined as~~ “included units” in the Act ~~as the Act is written on March 1, 1986, without amendment thereto.~~

Section 2. Water Supply.

(a) Agreement to Purchase and Sell. Subject to the provisions of this Contract, the Commission shall sell to each Charter Contract Customer and each Charter Contract Customer agrees to purchase from the Commission an amount of Lake Water necessary from time to time to serve its Full Water Requirements. The Commission’s obligation to each Charter Contract Customer, however, to deliver Lake Water hereunder shall be limited to a maximum annual amount equivalent to such Charter Contract Customer’s then current Water Allocation and to a maximum rate of Lake Water in any one hour equal to 1.7 times such Charter Contract Customer’s Water Allocation divided by 24. Further, the Commission’s obligation to each Charter Contract Customer to deliver Lake Water at a maximum hourly rate shall be divided among the connection points, if more than one of each such Charter Contract Customer as provided in the design of the Waterworks System.

(b) Certain Limits on Supply and Commission’s Power to Contract. The Commission shall use its best efforts to furnish Lake Water to the Charter Contract Customers as hereinabove provided, but its obligation hereunder shall be limited by ~~(i)~~ the amount of Lake Water from time to time available to the Commission; (ii) contracts between the Commission and its other Customers; (iii) the capacity of the Waterworks System; and (iv) ordinary transmission loss, including standard metering error, between the Commission’s source of supply and the points of delivery. The Commission shall not enter into contracts with other Customers that would cause the Commission to be obligated to sell Lake Water in excess of the least of ~~(i)~~ Waterworks System capacity, (ii) the maximum amount of Lake Water available under the Chicago Water Supply Contract or (iii) an amount which would decrease the amount of Lake Water then being supplied or to be supplied in the future to the Charter Contract Customers.

(c) Emergency or Maintenance Shut-Off. The Commission undertakes to use reasonable care and diligence to provide a constant supply of Lake Water as herein

provided for, but reserves the right at any time temporarily to turn off the Lake Water in its mains for emergency and maintenance purposes. The Commission shall give to the Charter Contract Customers notice not less than forty-eight (48) hours in advance of any such turn-off, except that in emergencies it shall give notice which is reasonable under the particular circumstances.

(d) Curtailment; Emergency Use of Other Sources. If it becomes necessary for the Commission to limit its delivery of Lake Water to its Customers for any reason, each Charter Contract Customer shall be entitled to the fullest extent possible to receive during such period of curtailment its pro rata share of Lake Water available as determined by the ratio of its total Lake Water use during the prior Fiscal Year to the sum of Lake Water use during the prior Fiscal Year of all Customers entitled to Lake Water during such period of curtailment. Nothing in this Contract shall be construed to prohibit each Charter Contract Customer from serving its customers in cases of emergency, or when the Commission for whatever reason is unable to meet such Charter Contract Customer's Full Water Requirements, from any source including wells owned by such Charter Contract Customer and maintained for emergency use.

(e) Water Quality. The Commission further undertakes to provide ~~in the Chicago Supply Contract and similar water supply contracts~~ that all Lake Water delivered to the Commission under said contracts shall be of such quality, at the point of delivery to the Commission under said contracts, as to meet the requirements of any Federal, State or local agency as shall have jurisdiction from time to time for the operation of public water supplies. The Commission shall supply each Charter Contract Customer with Lake Water of a quality commensurate with that furnished other Charter Contract Customers, and meeting state and federal water quality standards. The Commission bears no responsibility for the contamination of Lake Water or deterioration of water quality occurring beyond the points of delivery to the Charter Contract Customers.

Section 3. Storage, Delivery, Distribution and Conservation.

(a) Storage. The ~~Chicago~~ Water Supply Contract currently requires the Commission to provide for and maintain water storage within the Waterworks System and certain Customer Unit Systems, collectively, of sufficient capacity to store not less than two times the annual average daily water demands (including operable shallow well capacity which may be counted towards meeting up to ten percent (10%) of the storage requirements.) In the event the City of Chicago enforces the minimum water storage standards and thereby requires the Commission to provide additional water storage and capacity, then this Section will apply. Each Charter Contract Customer agrees to use its best efforts to increase the water storage capacity of its Unit System; but in no event shall a Charter Contract Customer be required to increase the water storage capacity contained in its Unit System (including its operable shallow well capacity which may be counted towards meeting up to ten percent (10%) of its storage requirements) to an amount more than ~~(1)~~ twice the amount of its then annual average daily water demand, less that portion of the Commission's storage capacity in its Waterworks System equal to such Charter Contract Customer's annual average daily

water demand divided by the total annual average daily water demands of all Customers (to the extent that such Customers are included as parties for whom storage must be provided and maintained under the provisions of the ~~Chicago Water Supply Contract~~) ~~or (ii) an amount of storage (including storage under construction or ordered to be constructed pursuant to this subsection) relative to its annual average daily water demand which is more than any other Contract Customer's storage relative to its annual average daily water demand.~~

(b) Points of Delivery, Back-Flows, Pressure. The points of delivery shall be defined as the points of outlet where the Lake Water delivered hereunder leaves the Waterworks System and enters a Unit System. These points will be to the lesser of ten feet downstream from the Commission's metering stations or a common dividing wall between the Commission's metering station and the Contract Customer's pressure adjusting or rate control stations. The number and location of connections to each ~~CharterContract~~ Customer's system are shown on Exhibit 1. Each ~~CharterContract~~ Customer shall receive its supply of Lake Water downstream of the Commission's metering stations at pressures that will vary from time to time. Each point of delivery shall have a pressure adjusting or rate control~~increasing/reducing~~ station. Each ~~CharterContract~~ Customer is responsible for the siting, design, construction, operation, maintenance and replacement of the pressure adjusting or rate control stations supplied by Contract Customer~~increasing/reducing stations~~ to convey water from the Waterworks System into the Unit System. ~~The Commission shall pay or reimburse each CharterContract Customer for reasonable costs of design and initial construction of such stations; provided, that each CharterContract Customer shall provide appropriate sites without reimbursement.~~

~~Initial construction and~~ Future construction and modification of plans and specifications of the pressure increasing/reducing stations shall be submitted to the Commission for review and approval, which shall not be unreasonably withheld.

Each ~~CharterContract~~ Customer's operation of its pressure adjusting or rate control~~increasing/reducing~~ stations shall not cause surges or back-flows into the Waterworks System nor shall the operation of the Customer's pressure adjusting or rate control~~increasing/reducing~~ facilities cause the Waterworks System pressure to drop below 20 psi. The Commission shall not be responsible for any damage to the Unit System caused by design, operation or maintenance of the Customer's connection facilities to the Waterworks System.

(c) ~~CharterContract~~ Customer to Maintain Water Quality and Unit System and to Prevent Waste. Each ~~CharterContract~~ Customer agrees to operate its Unit System from the points of delivery on to the consumer in such a manner as at no time to place the Commission and the Waterworks System in jeopardy of failing to meet the regulations of any agency or governmental authority having jurisdiction for its operation of public water supplies. Each ~~CharterContract~~ Customer also agrees to notify the Commission as promptly as possible of all emergency and other conditions which may

directly or indirectly affect the quantity or quality of the Lake Water received hereunder or the Waterworks System.

Section 4. Measuring Equipment.

(a) Commission to Supply Equipment, Official Record. The Commission shall furnish, install, own, operate, maintain, repair and replace, at its own expense, at the points of delivery the necessary equipment and devices of a type meeting the standards of the American Waterworks Association for measuring properly the quantity of Lake Water delivered under this Contract, together with such above-ground structures as the Commission shall deem necessary to house such equipment and devices. Such meter or meters and other equipment so installed and structures so constructed shall remain the property of the Commission. Such structures and equipment shall be located at sites selected and provided by each ~~Charter~~Contract Customer, respectively, for Lake Water delivered to it, for such purpose. Such sites shall be subject to review and approval by the Commission, which shall not be unreasonably withheld. Each ~~Charter~~Contract Customer shall grant to the Commission a property interest in each respective site sufficient to enable the Commission to install, use, operate and maintain such structures and equipment during the term of this Contract; however, each Contract Customer shall be responsible for maintaining the grounds and landscaping, including but not limited to shrubbery and other plantings, located on each site provided. The Commission and each ~~Charter~~Contract Customer shall have access to such structures and equipment for examination and inspection at all reasonable times, but the reading for billing purposes, calibration and adjustment thereof shall be done only by the employees or agents of the Commission. For the purpose of this Contract, the official record of readings of the meter or meters shall be the journal or other record book of the Commission in its office in which the records of the employees or agents of the Commission who take the readings are or may be transcribed. Upon written request of a ~~Charter~~Contract Customer, the Commission will give the ~~Charter~~Contract Customer a copy of such journal or record book, or permit the ~~Charter~~Contract Customer to have access thereto in the office of the Commission during regular business hours.

(b) Calibration. At least once in each Fiscal Year, the Commission shall calibrate its meters dedicated to measuring Lake Water to a ~~Charter~~Contract Customer if requested in writing by such ~~Charter~~Contract Customer to do so, in the presence of a representative of the ~~Charter~~Contract Customer, and the Commission and such ~~Charter~~Contract Customer shall jointly observe any adjustments which are made to the meters in case any adjustments shall be necessary, and if any check meters as hereinafter provided for have been installed, such meters shall also be calibrated by the ~~Charter~~Contract Customer in the presence of a representative of the Commission and the Commission and such ~~Charter~~Contract Customer shall jointly observe an adjustment in case any adjustment is necessary.

(c) Check Meters. A ~~Charter~~Contract Customer may, at its option and its own expense, install and operate a check meter to check each meter installed by the

Commission, but the measurement of Lake Water for the purpose of this Contract shall be solely by the Commission's meters, except in the cases hereinafter specifically provided to the contrary. All such check meters shall be of standard make and shall be subject at all reasonable times to inspection and examination by any employee or agent of the Commission, but the calibration and adjustment thereof shall be made only by such CharterContract Customer, except during any period when a check meter may be used under the provisions hereunder for measuring the amount of water delivered, in which case the calibration and adjustment thereof shall be made by the Commission with like effects as if such check meter or meters had been furnished and installed by the Commission.

(d) Variations between Meters; Reconciliation. Notwithstanding the foregoing, if the Commission or any Contract Customer at any time observes a variation between a delivery meter and a check meter, if any such check meter shall have been installed, or any other evidence of meter malfunctions, such party shall promptly notify the other party and the Commission and such Contract Customer shall then cooperate to procure an immediate calibration test and adjustment of such meter to accuracy and shall jointly observe any such adjustment. The party who discovers such variation shall give the other party notice not less than forty-eight (48) hours prior to the time of all tests of meters (which tests shall be conducted during normal working hours) so that the other party may conveniently have a representative present. If said representative is not present at the time set in such notice, calibration and adjustment may, notwithstanding any other provision of this paragraph, proceed in the absence of said representative. If, upon any test, the percentage of inaccuracy of any meter is found to be in excess of two percent (2%), registration thereof shall be corrected by agreement of the Commission and such Contract Customer based upon the best data available, for a period extending back to the time when such inaccuracy began, if such time is ascertainable, and if such time is not ascertainable, then for a period extending back one-half (1/2) of the time elapsed since the last date of calibration, but in no event further back than a period of 183 calendar days of meter operations~~six (6) months~~. If for any reason any meters are out of service or out of repair so that the amount of Lake Water delivered cannot be ascertained or computed from the reading thereof, the Lake Water delivered during the period such meters are out of service or out of repair shall be deemed to be the registration of any check meter or meters if the same have been installed and are accurately registering. Otherwise, the amount of Lake Water delivered during such period shall be estimated ~~(i)~~ by correcting the error if the percentage of the error is ascertainable by calibration tests or mathematical calculations, or (ii) if the error is not ascertainable by calibration tests or mathematical calculation, by estimating the quantity of delivery by considering deliveries during preceding periods under similar conditions when the meter or meters were registering accurately.

(e) Removal of Commission Metering Station. Within ninety (90) days after the termination of this Contract (absent a failure to renew)~~without renewal~~, the Commission shall at its own expense remove metering equipment and stations from and restore the property of each CharterContract Customer to which such termination without renewal applies. If the Commission fails to remove and restore, as aforesaid,

the CharterContract Customer affected may elect to enforce its right to same or to take title to such equipment and station.

Section 5. Unit of Measurement. The unit of measurement for Lake Water delivered hereunder shall be gallons of water, U.S. Standard Liquid Measure, and all measuring devices shall, unless the Commission and affected Contract Customer otherwise agree, to be so calibrated. In the event that it should become necessary or desirable to use other units of measurement, the basis of conversion shall be that 7.48 gallons is equivalent to one (1) cubic foot.

Section 6. Prices and Terms of Payment.

(a) Operation and Maintenance Costs; Underconsumption Costs. Each CharterContract Customer shall pay a share of Operation and Maintenance Costs for each month, which shall be an amount equal to the then current price per 1,000 gallons for Operation and Maintenance Costs times the quantity of Lake Water divided by 1,000 delivered by the Waterworks System to such CharterContract Customer for such month. At any time no Lake Water is being supplied through the Waterworks System to Contract Customers, each Contract Customer's share of monthly Operation and Maintenance Costs shall be that proportion of those costs which such Contract Customer's Water Allocation bears to the total Water Allocations of all Contract Customers required to make Operation and Maintenance Costs payments during the same period. The Commission may require Subsequent Customers to pay for any month a share of Operation and Maintenance Costs, which share may be based upon a rate or proportion higher than that which is applicable to CharterContract Customers. Such requirement of a greater share may but need not be applied by the Commission to reduce the shares of said costs payable in any month by the CharterContract Customers; provided, however, that in no event shall the Commission reduce the shares of CharterContract Customers by an amount which exceeds the amount that is available due to such greater share being paid by a Subsequent Customer.

Each Underconsumer shall pay its share of Underconsumption Costs as determined and assessed by the Commission after notification of such costs by the City of Chicago. Each Underconsumer's share of Underconsumption Costs for a year shall be equal to the ratio of its Underconsumption to the aggregate Underconsumption of all Underconsumers for such year.

(b) Fixed Costs. ~~Subject to the single limitation on its obligation to pay Fixed Costs set forth in this subsection, e~~Each CharterContract Customer agrees to pay its share of Fixed Costs for each Fiscal Year, which share shall be payable monthly and shall be that proportion of Fixed Costs which such CharterContract Customer's Full Water Requirements for the two preceding calendar years prior to such Fiscal Year bears to the sum of the Full Water Requirements ~~of or~~ Minimum Take of Pay Requirements, as applicable, of all those Contract Customers for such two preceding calendar years, ~~who are not relieved from Fixed Costs payments pursuant to the~~

~~payment limitation set forth in the last sentence of this subsection.~~ The Commission may require Subsequent Customers to pay for any month a share of Fixed Costs which is greater than said proportion. Such requirement of a greater share may but need not be applied by the Commission to reduce the shares of said costs payable in any month by the CharterContract Customers; provided, however, that in no event shall the Commission reduce the shares of CharterContract Customers by an amount which exceeds the amount that is available due to such greater share being paid by a Subsequent Customer. Prior to the Commission's delivery of Lake Water to any CharterContract Customer for two (2) calendar years, each CharterContract Customer's share of monthly Fixed Costs shall be that portion of Fixed Costs which such CharterContract Customer's Water Allocation bears to the total Water Allocations of Contract Customers, ~~who are not relieved from Fixed Costs payments pursuant to the payment limitation set forth in the last sentence of this paragraph.~~ ~~Subject to the single limitation on its obligation to pay Fixed Costs set forth in this paragraph, each Charter Customer's obligation to make all payment of Fixed Costs 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 any Charter Customer or whether the Waterworks System is completed, operable or operating, and notwithstanding suspension, interruption, interference, reduction or curtailment of the supply of Lake Water. The rights of the Charter Customer in the event of the failure by the Commission to perform its obligations under this Contract are governed by Section 14. Each Charter Customer's obligation to pay Fixed Costs hereunder is subject to the single limitation that, if for any period of time (and only during such period) the Commission is in fact supplying the Full Water Requirements or Minimum Take or Pay Requirements, as applicable, of Contract Customers other than such Charter Customer, whose Full Water Requirements and Minimum Take or Pay Requirements are more than 85% of the sum of the Full Water Requirements or Minimum Take or Pay Requirements, as applicable, of all Contract Customers, and during such period of time the Commission is unable to supply any Lake Water to such Charter Customer, then such Charter Customer shall have no obligation to pay Fixed Costs for such period.~~

(c) Bills and Due Date. The Commission shall notify each CharterContract Customer of such CharterContract Customer's share of Aggregate Costs for a month on or before the tenth (10th) day of the following month. The CharterContract Customer's share of Aggregate Costs for a month shall be due and payable and must be received at the offices of the Commission on or before the tenth day of the month following the month of the Commission's notification. ~~or, if~~ If the Commission provides the notice later than the tenth (10th) day of the month, CharterContract Customer shall have, within twenty-eight (28) days of from the date of notification to make said payment.

(d) Default Shares. If any Customer shall default in the payment to the Commission of any part of its share of Aggregate Costs, or any part of the payment of its share due pursuant to this subsection 6(d), each CharterContract Customer agrees to pay a share of the amount so in default to the Commission, which share shall be in the same proportion as such CharterContract Customer's share of the Aggregate Costs for the month prior to the month of the default bears to the sum of the shares of

Aggregate Costs in that month of all Contract Customers obligated to make payments under this subsection 6(d) not in default. A ~~CharterContract~~ Customer's share of defaulted Aggregate Costs, or such defaulted payment of shares, as the case may be, shall be due and payable twenty-one (21) days after the Commission's written demand therefor. The demand shall include the Commission's calculations of the amount due by the ~~Carter-Contract~~ Customer hereunder. If and when the defaulting Customer makes a payment to the Commission of a defaulted amount or interest thereon for which the ~~CharterContract~~ Customers have made a payment to the Commission under this paragraph, the Commission will pay to each ~~CharterContract~~ Customer its proportionate share of such amount, including any such interest paid thereon.

(e) Disputed Payments. If a ~~CharterContract~~ Customer desires to dispute all or any part of any payments under this Agreement, the ~~CharterContract~~ Customer shall nevertheless pay the full amount of any such payment when due and include with such payment written notification to the Commission that charges are disputed, the grounds for dispute and the amount in dispute.

Upon receipt of notification of dispute, representatives of the Commission shall meet with representatives of the ~~CharterContract~~ Customer to resolve such dispute. No adjustment or relief on account of any disputed charges shall be made unless disputed charges are the subject of such notice within twenty-one (21) days of receipt by Contract Customer of the billtime herein specified, or within a reasonable period from the time the ~~CharterContract~~ Customer knew or should have known of the facts giving the rise to the dispute.

The Commission and the ~~CharterContract~~ Customer shall promptly attempt and continue efforts to resolve the dispute. In the event that it is determined that the ~~CharterContract~~ Customer shall have overpaid, it shall receive a refund with interest at the rate set out in subsection (f).

(f) Interest on Overdue Payments. If a ~~CharterContract~~ Customer shall fail to make any payment required under this Contract on or before its due date, such ~~CharterContract~~ Customer shall be in default, and interest on the amount of such payment shall accrue during the period of non-payment at the maximum legal rate payable by an Illinois non-home rule unit, not to exceed the higher of the weighted average effective interest rate on all series of Bonds of the Commission any of which are then outstanding plus two percent (2%) or the prime rate from time to time announced by the largest commercial bank, measured in terms of total assets, located and doing banking business in the State of Illinois, plus five percent (5%), from the date such payment becomes due until paid in full with interest as herein specified. In the event such payment is not made within thirty (30) days from the date such payment becomes due, the Commission may at its option and in its discretion reduce or discontinue delivery of Lake Water to the ~~CharterContract~~ Customer until the amount due the Commission is paid in full with interest as herein specified. The Commission shall give notice to the ~~CharterContract~~ Customer not less than twenty (20) days prior to the event of its intention to reduce or discontinue delivery of Lake Water in accordance

with this subsection (f) and shall provide the Charter Contract Customer an opportunity for a hearing prior to any reduction or discontinuance. If the Commission reduces or discontinues the delivery of Lake Water under such circumstances, the Charter Contract Customer shall, nevertheless, continue to be liable to pay all charges herein provided for. The rights specified in this subsection shall be in addition to all other rights and remedies available to the Commission at law or in equity for breach of any of the provisions of this Contract.

(g) Security Deposit. If a Charter Contract Customer is in default in any payment due under this Contract and the default is not cured within thirty (30) days after the due date of the defaulted payment, the Commission may, at its option, require such Charter Contract Customer, as a further obligation under this Contract, to deposit as security for the payment of such Charter Contract Customer's obligations hereunder a reasonable amount determined by the Commission. The Charter Contract Customer's compliance with the Commission's demand for a security deposit shall be a condition precedent to the curing of such Charter Contract Customer's default and the restoration of the Lake Water service to such Charter Contract Customer, if abated or reduced by reason of such default. The security deposit or any part thereof may, at the Commission's discretion, be applied to any subsequent default by the Charter Contract Customer in any payments due hereunder. If so applied, the Charter Contract Customer shall provide funds within three (3) business days immediately to restore the security deposit to the amount required by the Commission. At the earliest of the end of the term of this Contract, a term of two (2) years after the curing of the most recent default by the Charter Contract Customer, or at such time that the Commission may in its sole discretion determine, any security deposit shall be returned to the Charter Contract Customer if the Charter Contract Customer has performed all its obligations under this Contract.

(h) Rates to Charter Contract Customers Same. No change in the rates or charges under this Contract for any Charter Contract Customer may be made unless the same change is made for all Charter Contract Customers.

(i) Limitation on Payments; Net Indebtedness of Charter Contract Customers. Notwithstanding any other provisions of this Contract to the contrary, the payments required to be made by each Charter Contract Customer under this Contract shall be required to be made solely from revenues to be derived by such Charter Contract Customer from the operation of its Unit System. This Contract shall not constitute an indebtedness of any Charter Contract Customer within the meaning of any statutory or constitutional limitation.

(j) May Use Other Moneys. Notwithstanding the provisions of Subsection (i) of this Section, the Charter Contract Customers are not prohibited by this Contract from using other available funds to make the payments required by this Contract.

(k) Sole Method for Charter Contract Customers to Enforce Provisions Hereof Against Other Customers. Each Charter Contract Customer acknowledges

that its obligations to make payments hereunder are of benefit to each other ~~CharterContract~~ Customer and to Subsequent Customers as such other Customers' obligations are of benefit to the ~~CharterContract~~ Customer. Accordingly, each ~~ContractCharter~~ Customer agrees that, in addition to the Commission, Bondholders, a Trustee or other parties by law entitled to enforce the provisions of this Contract, any three (3) or more ~~Contract-Subsequent~~ Customers acting together may enforce the provisions of this Section 6, but only if the Commission has not acted to enforce such provisions within ninety (90) days of failure to make a payment hereunder. Any rights any Contract Customer has under this Contract or other contracts with the Commission shall be limited in enforcement as set forth herein.

(l) Beginning of Obligation to Pay. The obligation to make any and all payments under this Contract shall begin the month immediately following the issuance of~~after~~ any Bonds or the obtaining of Lake Water from the Commission, whichever is later-are issued.

(m) Provision in Lieu of Water Allocation. At any time when no Water Allocation is in effect for a Customer and reference to a Water Allocation is necessary to give meaning to a term of this Contract, the Water Allocation for such Customer shall be deemed to be as follows:

~~—(i) prior to May 1, 1988, the MGD value set out for such Customer in Section 24 hereof, if applicable, or in the applicable Subsequent Contract for a Subsequent Customer and~~

~~—(ii) on or after May 1, 1988,~~ such Customer's Full Water Requirements for the then most recently completed calendar year divided by 365.

Section 7. Procedural and Other Limitations; Further Covenants of the Commission. Notwithstanding any other provisions of this Contract, the ~~CharterContract~~ Customers shall have the rights enumerated within this section and the Commission in its activities shall be obligated in the manner provided in this section.

(a) Procedural Rule. No motion, resolution or ordinance concerning the subjects enumerated below shall be adopted by the Commission except by at least a majority affirmative vote of all of the Commissioners which majority must contain the votes of at least one-third (1/3) of the Commissioners appointed by the County Board Chairman and forty percent (40%) of the Commissioners appointed by the Mayors as provided in the Act: (1) Approval of individual contracts or a series of contracts related to a single Project in an amount in excess of \$100,000; (2) Setting of rates for the sale of Lake Water to ~~CharterContract~~ Customers; (3) Borrowing funds; (4) Exercise of eminent domain powers; (5) Employment of the General Manager and Financial Administrator, and managerial and professional ~~personnel either as employees or consultants;~~ or (6) Amendment of the ~~Chicago~~ Water Supply Contract or (7) entering into any agreement to provide Lake Michigan Water to a Subsequent Customer.

(b) Lake Water Only. Without the prior approval of the corporate authorities of any CharterContract Customer affected, the Commission shall not deliver any water to a CharterContract Customer other than Lake Water. Costs for Lake Water charged by the Commission shall only include Aggregate Costs relating to the purchase and delivery of Lake Water.

~~**(c) Intentionally Omitted Taxes.** To the fullest extent it may lawfully do so, the Commission covenants to do as follows. It shall annually appropriate and impose its corporate sales taxes, or any taxes permitted which are a substitution for sales taxes, in the maximum amounts authorized by law. In the event that any CharterContract Customer (il) is not supplied by the Commission an amount of water equal to its Water Allocation times 365 times the Underconsumption Ratio for a given year but nevertheless pays a share of Underconsumption Costs for such year, (ii) is entitled to a Rebate as hereinafter defined and provided for or (iii) pays Operation and Maintenance Costs or Fixed Costs in the case of abandonment of the Waterworks System, the Commission shall apply such sums of money as it receives from the proceeds of such taxes (x) to repay to CharterContract Customers the amount paid by each, respectively, for Underconsumption Costs as set forth in clause (il), (y) to pay the Rebate as set forth in clause (ii) and (z) to repay to CharterContract Customers the amount paid by each, respectively, for Operation and Maintenance Costs and Fixed Costs as set forth in clause (iii). If the Commission cannot pay all of said amounts, it shall make payment thereon pro rata.~~

(d) Covenants to Be Set Out in Bond Ordinance. Any Bond Resolution passed by the Commission shall contain language to the following effect:

Any holder or registered owner of a bond or any of its coupons, in any civil action, mandamus, or other proceeding, may enforce and compel performance of all duties required by law to be performed by the Commission or by any customers of the Commission, including the making of rates and charges, the collecting of sufficient revenue and the application thereof, as provided by applicable law, and including, expressly, all of the terms and provisions of Sections 6, 7 and 16 of the Contract [referring to this Contract].

The parties or persons which make loans of funds to the Commission [by this Bond Resolution] have received the pledge of the State of Illinois that it will not impair or limit the power or ability of the Commission or a unit of local government fully to carry out the terms of any contract for the supply of water entered into by the Commission and a unit of local government for the term of such contract. For purposes of such impairment or limitation, the contracts for the supply of water executed by units of local government and the Commission contain terms and conditions intended by the parties thereto and by the Bondholders to be absolute conditions thereof.

(e) Absolute Conditions. For purposes of the pledge and agreement of the State of Illinois that it will not impair or limit the power or ability of the Commission or the

CharterContract Customers fully to carry out the terms and conditions hereof, all terms and conditions contained herein are intended to be absolute conditions hereof and are agreed to by the parties. It is hereby intended that no change in the Act or other law or regulation subsequent to the date hereof shall affect any of the terms or provisions of this Contract, and neither the CharterContract Customers nor the Commission, without the unanimous consent of all of them, shall take any actions under a change in the Act or other law or regulation contrary to the terms and conditions herein.

(f) Emergency Supply. A CharterContract Customer may contract for a temporary supply of water in case of an emergency from any other unit of local government or any entity.

(g) Governance. For the term of this Contract, the number of Commissioners appointed by the Mayors as provided in the Act shall be not less than one-half (1/2) the total number of Commissioners (excluding, expressly, for purposes of said count, the Chairman).

(h) Retail Sales. The Commission shall not engage in the retail sale or distribution of water to residents or customers of any CharterContract Customer.

(i) Evidence of Customer Action. Wherever in this Contract the consent or authorization of a CharterContract Customer or a group of CharterContract Customers are required, the consent may only be evidenced by a resolution or motion passed by the corporate authorities of the CharterContract Customer.

(j) Limitation on Funds. No funds received by the Commission from Operation and Maintenance Costs or Fixed Costs payable from CharterContract Customers may be expended for the planning, construction, operations or maintenance of a waterworks system other than the Waterworks System, or the extension thereof, specified within this Contract.

~~**(k) General Obligation Bonds.** The Commission shall not issue any Bonds until or unless they shall have issued general obligation bonds for the Waterworks System in an amount of at least \$100,000,000. Such general obligation bonds and Bonds may be issued simultaneously.~~

(k) Certain Budget, Rate Limitation, Notice and Hearing Provisions. Not less than sixty (60) days prior to the beginning of each Fiscal Year, the Commission shall prepare and send to the CharterContract Customers a tentative budget. Each such budget shall include, among such other items as the Commission may choose, an estimate of Fixed Costs to be payable by each CharterContract Customer in a stated aggregate dollar amount per month for each and an estimate of Operations and Maintenance Costs in a stated price per 1,000 gallons. The Commission will hold a hearing on such budget, at which the CharterContract Customers may be heard, and shall give the CharterContract Customers not less than twenty-one (21) days notice of such hearing. Operations and Maintenance Costs payable in each Fiscal Year shall be

determined and assessed by the Commission on a price per 1,000 gallons basis; such price may not exceed the estimate as set forth in the tentative budget unless the Commission shall hold a hearing on such higher price, at which the ~~Charter~~Contract Customers may be heard, and shall give the ~~Charter~~Contract Customers not less than twenty-one (21) days' notice of such hearing.

~~—— (Im) Use of Sales Taxes to Rebate Charges In Limited Circumstances. To the fullest extent it may lawfully do so, the Commission agrees to rebate solely from the corporate sales taxes of the Commission, or any taxes permitted which are a substitution for sales taxes, within a reasonable time, payments of Aggregate Costs made by Charter Customers under this Contract upon the conditions as follows:~~

~~—— (i) This provision applies only upon initial construction of the Waterworks System.~~

~~—— (ii) The “60% Completion Date” is defined as the date during initial construction upon which the Waterworks System is serving or able to serve the Full Water Requirements of Charter Customers the sum of whose Water Allocations equals or exceeds sixty percent (60%) of the sum of the Water Allocations of all Charter Customers.~~

~~—— (iii) This provision applies only to those Charter Customers (the “Rebate Recipients”) which are not being served or able to be served with any Lake Water by reason of the Waterworks System not having been sufficiently completed one year after the 60% Completion Date.~~

~~—— (iv) The Commission shall rebate from such sales taxes, or any taxes permitted which are a substitution for sales taxes, to each Rebate Recipient the amount paid (the “Rebate”) by such Rebate Recipient to the Commission pursuant to this Contract during the period beginning one year after the 60% Completion Date to the date upon which the Waterworks System can deliver Lake Water to such Rebate Recipient.~~

~~—— (v) The Commission agrees, to the fullest extent it may lawfully do so, annually to appropriate such amount of such sales taxes, or any taxes permitted which are a substitution for sales taxes, as may be necessary to meet its obligation to pay the Rebates to the Rebate Recipients; provided, the Commission shall not be required to pay any Rebates until it has had sufficient time to take such budget and appropriations measures as are necessary under law.~~

~~—— (vi) The Rebate Recipients are not relieved of any obligation under this Contract by the terms of this subsection but become entitled to payment of Rebates from the taxes as are herein described. The Charter Customers acknowledge that such funds are limited in amount. The Rebate Recipients shall have no recourse against any revenues of the Waterworks System. No interest shall be paid on any Rebate amount.~~

Section 8. Special Conditions and Covenants.

(a) Commission to Build Waterworks System and Supply Lake Water.

~~The Commission shall proceed promptly with the construction of the Waterworks System necessary to the performance of its obligations hereunder. The Commission will make a diligent effort to have its facilities completed to the point of delivery so as to furnish Lake Water to the Charter Customers by January 31, 1992, but the Commission does not hereby guarantee delivery by such date. The Commission shall not be liable to any Charter Customer for any damages occasioned by delay in the commencement of such service to any Charter Customer, and all payments provided for under this Contract remain due and payable in accordance with its terms notwithstanding any such delay. After Lake Water is first tendered for delivery to a Charter Customer at any point of delivery, the Commission shall, subject to the other terms and conditions of this Contract, continually hold itself ready, willing and able to supply Lake Water to any such CharterContract Customer. The Commission shall also use its best efforts, consistent with its legal obligations to its other Customers and consistent with fair and equitable treatment of all of its Customers, to supply each CharterContract Customer with such additional amounts of Lake Water as may be from time to time allocated to such CharterContract Customer over and above its present Water Allocation, but the Commission does not hereby guarantee a supply of such additional amounts.~~

(b) Title to Lake Water. Title to all Lake Water ~~s~~Supplied hereunder shall remain in the Commission to the lesser of the points ten feet (10 ft.) downstream from the Commission's metering stations or a common dividing wall between the Commission's metering station and the Contract Customer's pressure adjusting or rate control stations for each Unit System and thereupon shall pass to such CharterContract Customer.

~~**(c) Commission to Use Best Efforts to Build and Finance Construction.**~~

~~The Commission shall use its best efforts to obtain the necessary permits and contracts for labor and material, and to borrow funds and issue its Bonds therefor in order to acquire and construct the Waterworks System.~~

~~**(d)**~~**(c) Payments Hereunder an Operation Expense of Unit Systems.**

Obtaining water is an essential item of expense of the Unit Systems. To the fullest extent permitted by law or contract, all of the payments to be made by each CharterContract Customer hereunder shall constitute operating expenses of the Unit Systems as to any and all revenue bonds of such CharterContract Customer which are supported in whole or in part by a pledge of the revenues of its Unit System, with the effect that such CharterContract Customer's obligation to make payments from its water revenues under this Contract has priority over its obligation to make payments of the principal of and and premium, if any, and interest on any such bonds which are or will be supported in whole or in part by a pledge of such Unit System revenues. Each CharterContract Customer shall make all budgetary, emergency and other provisions and appropriations necessary to provide for and authorize the prompt payment by such CharterContract Customer to the Commission of its shares of Aggregate Costs. The obligations of each CharterContract Customer under this Contract are further payable from all other accounts of the Unit System of each CharterContract Customer,

respectively, for its shares, in which there are lawfully available funds. In any revenue bond ordinances or resolutions hereafter enacted by a CharterContract Customer, the priority of lien established pursuant to this Contract shall be expressly provided and set forth in said bond ordinances or resolutions. If legal action is brought against a CharterContract Customer challenging the priority of such CharterContract Customer's obligations hereunder over the lien of any revenue bonds supported by a pledge of the revenues of its Unit System, the Commission shall, if requested to do so by such CharterContract Customer, undertake the defense of the legal action at the Commission's expense.

(e)(d) Commission Insurance. The Commission will carry insurance or maintain self-insurance with respect to the Waterworks System of the kinds and in the amounts which are customarily carried or maintained by parties operating similar properties, including, without limiting the generality of the foregoing, fire and other casualty and public liability insurance or protection. All moneys received for loss under the insurance policies or on deposit as self-insurance reserve funds shall be used in making good the loss or damage in respect of which they were paid except to the extent no longer deemed useful to or profitable in the operation of the Waterworks System, whether by repairing the property damaged or replacing the property destroyed, and provision for making good such loss or damage or replacing the property destroyed shall be made within a reasonable time from date of loss. The proceeds derived from any and all policies or available from self-insurance reserves for public liability losses shall be used in paying or reimbursing any accounts from which payments for settlements, judgments or expenses were advanced.

(f)(e) Commission to Continue to Serve. The Commission will use its best efforts to continue serving all the CharterContract Customers.

(g)(f) Commission Covenant to Operate Properly. From time to time, the Commission will take steps reasonably necessary so that the Waterworks System may at all times be operated properly ~~and advantageously~~.

Section 9. Additional CharterContract Customer Covenants. Each CharterContract Customer further covenants as follows:

(a) Maintain and Operate Unit System. It will own and maintain its Unit System, and all improvements and extensions of its Unit System, in good repair and working order, will operate the same efficiently, and will punctually perform all duties with respect to its Unit System as may be required by the Constitution and laws of the State of Illinois and all other applicable laws and by all resolutions and ordinances of such CharterContract Customer.

(b) Rate Covenant. It will establish, maintain, revise as necessary and collect, rates and charges for customers of its Unit System as shall be required from time to time to produce revenues at least sufficient ~~(i)~~ to pay all amounts due under this Contract and to pay all other costs of operation and maintenance of its Unit System, (ii)

to provide an adequate depreciation fund for its Unit System, (iii) to make all deposits in all funds and accounts required by the terms of resolutions or ordinances authorizing bonds payable from revenues of its Unit System and (iv) to pay the principal of and interest on all bonds of such [CharterContract](#) Customer payable from the revenues of its Unit System. The Commission may not sue to enforce the provisions of this Section as they relate to clauses (ii) through (iv) unless it can show that the ability of the [CharterContract](#) Customer to make the payments set forth in clause (i) is substantially impaired by the inadequacy of said rates and charges. The rates and charges for customers of a Unit System shall not be required, however, to be sufficient to produce amounts required to make payments under this contract so long as available amounts sufficient for making such payments for the next six (6) months or the remainder of such [CharterContract](#) Customer's fiscal year, whichever is longer, shall have been set aside in cash or investments in a separate account in its Unit System Fund designated for the purpose of making payments under this Contract,

(c) Segregate Revenues. It shall provide for the segregation of all revenues of its Unit System in such Unit System Fund and provide for the application of the revenues for the purpose of subsection (b) of this Section. Moneys of a Unit System of a [CharterContract](#) Customer which exceed the obligations of such [CharterContract](#) Customer hereunder may be used for any lawful corporate purposes.

(d) Future Subordination of Revenue Bond Lien. Any resolution or ordinance of the [CharterContract](#) Customer which authorizes the issuance after the date of this Contract of any obligation of the [CharterContract](#) Customer to be paid from revenues of its Unit System will expressly provide that revenues of its Unit System may be used to pay principal of and premium, if any, and interest of those obligations only to the extent that those revenues exceed the amounts required to pay the operation and maintenance expenses of its Unit System including, expressly, all amounts payable from time to time under this [Contract](#).

(e) General Covenant to Operate Properly. From time to time, it will take steps reasonably necessary so that its Unit System may at all times ~~be operated in accordance with industry standards properly and advantageously.~~

(f) Accounting and Audit. It will make and keep proper books and accounts (separate and apart from all other records and accounts of such [CharterContract](#) Customer) in which complete entries shall be made of all transactions relating to its Unit System, and, within two hundred ten (210) days following the close of each fiscal year of such [CharterContract](#) Customer, it will cause the books and accounts of its Unit System to be audited annually by independent certified public accountants, showing the receipts and disbursements on account of its Unit System.

(g) Maintain Ownership of Unit System and Properties. It will continue to own and possess its Unit System and will, within the exercise of reasonable business judgment and in a manner so as not to cause a default hereunder, dispose of property which is part of its Unit System only to the extent that [the Commission consents in](#)

writing, which consent shall not be unreasonably withheld such property is no longer useful or profitable in the operations of its Unit System. This subsection (g) does not prohibit a Contract Customer from selling specific equipment that it considers surplus and that is no longer needed or utilized to operate its Unit System.

(h) Insurance. It will carry insurance or maintain self-insurance with respect to its Unit System of the kinds and in the amounts which are customarily carried or maintained by parties operating similar properties, including, without limiting the generality of the foregoing, fire and other casualty and public liability insurance or protection. All moneys received for loss under the insurance policies or on deposit as self-insurance reserves shall be used in making good the loss or damage in respect of which they were paid except to the extent that the property damaged or lost would be permitted to be disposed of under subsection (g) of this Section, whether by repairing the property damaged or replacing the property destroyed, and provisions for making good such loss or damage or replacing the property destroyed shall be made within a reasonable time from date of loss. The proceeds derived from any and all policies or available from self-insurance reserves for public liability losses shall be used in paying or reimbursing any accounts from which payments for settlements, judgments or expenses were advanced.

(i) Budget and Appropriations. It will adopt a budget or appropriations ordinance for each fiscal year of such CharterContract Customer, or otherwise in accordance with applicable state laws, provide lawful authority for payment of all sums anticipated to be due to the Commission during such fiscal year.

(j) Continue to Serve. It will use its best efforts to continue serving all customers of its Unit System within its territorial limits which are served as of the date of this Contract.

(k) Maintain Water Allocation. It will use its best efforts to obtain or retain, from time to time, a Water Allocation at least equal to ~~but not in excess of two (2) times~~ its Full Water Requirements from time to time.

(l) Combining or Separating Unit System Accounts. It ~~shall not combine its existing separate waterworks system with its separate sewerage system or separate its existing combined waterworks and sewerage system into separate systems before May 1, 1990. Thereafter, it~~ may combine its waterworks system with its sewerage system or separate its combined waterworks system and sewerage system into separate systems only on the conditions as follows: (i) the CharterContract Customer shall provide the Commission with written evidence that the proposed combination or separation will not materially and adversely affect the CharterContract Customer's ability to comply with all of the terms, conditions and covenants of this Contract; and (ii) if the Commission shall then determine the proposed combination or separation will not materially and adversely affect the CharterContract Customer's ability to comply with all of the terms conditions and covenants of this Contract, then and only then the Commission shall approve such combination or separation and advise such CharterContract Customer in writing.

(m) Customer Covenants as to Rate of Withdrawal. Each CharterContract Customer will take Lake Water at the most uniform and continuous rate of withdrawal practicable.

Section 10. Election as to Water Purchase Requirements. ~~When and if the Commission pays in full all of its Bonds, a~~Any CharterContract Customer electing to take may elect to thereafter purchase from time to time less than its Full Water Requirements, as determined by from the Commission, shall pay its pro rata share of the Operations and Maintenance Costs and the Fixed Costs for the period of time during which its Full Water Requirements are not taken. In the event such CharterContract Customer elects to purchase less than its Full Water Requirements in any year pursuant to this Section, it shall pay a share of Underconsumption Costs, if any, incurred for such year and such CharterContract Customer's share of such Underconsumption Costs shall be deemed to be Operation and Maintenance Costs under this Contract. The prior sentence shall not be applicable where the Underconsumption is caused by an emergency situation as approved in writing by the highest executive of the Commission and lasts for less than thirty (30) days. Such CharterContract Customer's share of Operation and Maintenance Costs and Fixed Underconsumption Costs, if any, for the year shall be that proportion of those costs which the Operation and Maintenance Costs and Fixed CostsUnderconsumption of such CharterContract Customer for that year was to the sum of the Operation and Maintenance Costs and Fixed CostsUnderconsumption of all Customers for such year.

Section 11. Resale Limitations. Charter Customers shall not resell more than five percent of the water purchased from the Commission except:

- _____ (i) —To retail water customers under published rates and charges, without any special contract; or
- (ii) —A any contract approved in writing by the Commission, which approval shall be in the sole discretion of the Commission.

Abandonment. ~~Upon obtaining the consent of not less than (i) two thirds of all Charter Customers, (ii) a majority of those Charter Customers which would receive less than one half of their Full Water Requirements due to the termination hereinafter referred to and (iii) a majority of those Charter Customers which would receive no Lake Water due to such termination, the Commission may elect to terminate acquisition and construction of all or any part of its Waterworks System prior to its substantial completion. All of the following must occur before such termination.~~

~~_____ (a) The Commission shall have found that the cost of substantial completion of the Waterworks System would so greatly exceed original estimates of that cost that it would not be economically feasible for the Contract Customers together to pay the Fixed Costs which would be payable after substantial completion.~~

~~_____ (b) The Commission and each Charter Customer shall have been provided with a certificate from an independent consulting engineer and a certificate from an independent financial consultant to the effect that they each concur with the finding of the commission described in subsection (a) of this Section.~~

~~_____ (c) The Charter Customers and any Trustee appointed under a Bond Resolution of the Commission shall have been given ninety (90) days' notice of the proposed termination of acquisition and construction of all or any part of the Waterworks System.~~

~~_____ (d) The Commission shall have caused to be prepared a cooperative study by an attorney or firm of attorneys having nationally recognized expertise in municipal finance, an independent consulting engineer, and an independent financial consultant as to the proper, advantageous and equitable operation and disposition of the assets of the Waterworks System.~~

~~_____ If the Commission terminates acquisition and construction of all or any part of the Waterworks System pursuant to this Section, the obligations of each Charter Customer to make the payments required for Aggregate Costs under Section 6 of this Contract or required under subsection 6(d) of this Contract shall continue.~~

Section 12. Subsequent and Other Contracts.

(a) No Contract with Rate More Favorable. The Commission shall not supply Lake Water except pursuant to a written contract. No Subsequent Contract entered into after the Effective Date shall provide rates, charges or terms lower or more favorable to the Subsequent Customer than those provided in this Contract for Charter Contract Customers.

(b) Occasional Service Only Except to Contract Customers. Other than the providing of service to Charter Contract Customers, ~~the~~ Commission shall not contract for a supply of Lake Water to any person except to a Subsequent Customer or for occasional water use; Occasional water use is being the use of Lake Water for not more than thirty (30) days during any two-year period.

(c) Subsequent Contract Terms. After the Effective Date, ~~the~~ Commission shall not enter into a Subsequent Contract with any of the units of local government or private entities that are not a Contract Customer named in Section 24 hereof, unless such Subsequent Contract provides for an equitable and lawful differential rate or charge in the formula for Aggregate Costs which may take into account any pertinent factor and shall take into account each of the factors as follows: (i) the utility rate which would be chargeable by a regulated utility for the proposed service, (ii) replacement cost of the Waterworks System less depreciation and net outstanding Bonds, and (iii) the amount and time of payment of Fixed Costs which would have been payable by the proposed Customer had such Customer become a Charter Contract Customer, plus

interest on such costs from the time when they would have been paid, compounded semiannually, ~~at not less than ten percent (10%) per annum.~~

The differential may be satisfied by a lump sum payment or by surcharge for any term of years not longer than the then remaining term of this Contract. The differential shall inure to the benefit of the previous Contract Customers as their interests may appear (that is, those that have borne greater costs shall benefit proportionally greater) in such reasonable manner as the Commission may determine.

The ~~differential and the~~ allocation of the benefit so derived among prior Contract Customers shall be made by the Commission only after it has received and reviewed the recommendations of an independent consulting engineer, independent financial consultant and competent attorney, working together, who shall be selected by the Commission from a list of three (3) individuals or firms for each position by the CharterContract Customers.

For the purpose of making such list of three (3) individuals or firms, the Commission shall call a meeting of only the CharterContract Customers that are units of local government by giving notice to the CharterContract Customers as provided in this Contract not less than thirty (30) days prior to a proposed meeting date. The Commission shall convene the meeting, but thereupon the CharterContract Customers that are units of local government shall elect a presiding officer from among their number. Such meeting may be adjourned from time to time without notice. The majority of CharterContract Customers that are units of local government present and voting at said meeting shall be empowered to select such individuals or firms. The Commission shall keep the minutes of the meeting.

If the CharterContract Customers that are units of local government do not act at said meeting or within twenty-one (21) days thereof, the Commission shall proceed to select such persons or firms itself.

If the Commission shall impose the recommended differential, then the differential as imposed shall not be subject to any dispute or claim by any Contract Customer. This provision shall not require the Commission to follow such recommendations.

This entire subsection is qualified by the Commission's legal duty to serve within its territorial limits and to charge for such service fair and equitable rates which are not prohibitive. It is the intent of the Commission in entering into this provision of the Contract to recognize that the CharterContract Customers that are units of local government, solely, enable the Commission to proceed to construct the Waterworks System, that the units of local government hereinafter referred to need to be induced to become CharterContract Customers and that this provision is an express inducement, that by its essential design in accordance with good engineering practice, the Waterworks System must be built in many ways sufficient upon initial completion to

serve all of said units, but that only those units of local government who become CharterContract Customers will pay for such from the start of construction.

Section 13. Force Majeure. In case by reason of force majeure event any party hereto shall be rendered unable wholly or in part to carry out its obligation under this Contract, then if such party shall give notice and full particulars of such force majeure event in writing to the other parties within seven (7) days~~a reasonable time~~ after the occurrence of the event or cause relied on, the obligation of the party giving such notice, so far as it is affected by such force majeure event shall be suspended during the continuance of the inability then claimed, but for no longer period, and any such party shall endeavor to remove or overcome such inability with all reasonable dispatch. The term “force majeure” as employed herein shall mean acts of God, strikes, lockouts or other industrial disturbances, acts of public enemy, orders of any kind of the Government of the United States, of the State of Illinois, or of any civil or military authority, insurrection, riots, epidemics, landslides, lightning, earthquakes, fires, hurricanes, storms, floods, washouts, droughts, arrests, restraints of government and people, civil disturbances, explosions, breakage or accidents to machinery, pipelines, canals, or tunnels, partial or entire failure of water supply, and inability on the part of the Commission to deliver Lake Water hereunder, or of ~~any~~ CharterContract Customer to receive Lake Water hereunder, on account of any other causes not reasonably within the control of the party claiming such inability. The settlement of strikes and lockouts shall be entirely within the discretion of the party having the difficulty and that the above requirement that any ~~“force majeure”~~ events shall be remedied with all reasonable dispatch shall not require the settlement of strikes and lockouts by acceding to the demands of the opposing party or parties when such settlements is unfavorable to it in the judgment of the party having the difficulty. No force majeure event which renders any of the parties unable to perform under this Contract shall relieve a CharterContract Customer of its obligation to make payments to the Commission as required under Section 6.

Section 14. Commission Defaults. Failure by the Commission to deliver Lake Water to any CharterContract Customer as required by this Contract or failure of the Commission to perform any other obligation under this Contract and the continuation of that failure to perform for thirty (30) days after written notice from such CharterContract Customer to the Commission of such failure shall be a default of the Commission under this Contract, unless any such failure is excused pursuant to Section 13 of this Contract. If the Commission defaults under this Contract, the CharterContract Customer or CharterContract Customers affected may bring any action against the Commission, including an action for money damage or in equity and actions for mandamus and specific performance of the Commission’s obligations to the extent allowed by law. Election of any remedy shall not be a waiver of any other remedy.

Section 15. CharterContract Customer’s Obligation Unconditional. The CharterContract Customers shall have no right to terminate, cancel or rescind this Contract, no right to withhold from the Commission or the Trustee who is an assignee of the Commission pursuant to Section 17 of this Contract payments due or to become

due under this Contract, no right to recover from the Commission or such Trustee amounts previously paid under this Contract unless paid ~~in error or contrary~~ to the provisions of this Contract or law, no right of reduction or set-off against the amounts due or to become due under this Contract, to the Commission or such Trustee, and no lien on any amounts in any fund established by the Commission or such Trustee for any reason or on account of the existence or occurrence of any event, condition or contingency, whether foreseen or unforeseen or foreseeable or unforeseeable by the CharterContract Customers or the Commission or any other person; including by way of illustration, and not limitation, by reason of the fact that the Waterworks System in whole or in part is not completed, operable or operating; the output of the Waterworks System in whole or in part is suspended, interrupted, interfered with, reduced or curtailed; any party to the ~~Chicago~~ Water Supply Contract, ~~including the City of Chicago~~, does not perform in whole or in part thereunder; the Water Allocation of any Customer is modified or terminated or any Customer does not perform in whole or in part under this Contract or any other agreement or instrument; it being the intent hereof that the CharterContract Customers shall be absolutely and unconditionally obligated to make all payments hereunder ~~excepting the single limitation set forth in the last sentence of Section 6(b)~~. The Commission ~~may will~~ issue ~~its~~ Bonds in specific reliance on the limitations set forth in this Section with respect to the rights of the CharterContract Customers.

Section 16. Modification of this Contract or of the ~~Chicago~~ Water Supply Contract. Except for revisions and adjustments otherwise expressly provided for, neither this Contract nor the ~~Chicago~~ Water Supply Contract may be changed or modified unless the consent of the Commission and of three-fourths of the CharterContract Customers shall have been obtained. Such modification may be requested by any party, in which event a joint meeting of representatives of all governing bodies shall be called by the Commission and held not more than sixty (60) days after such request is made and not less than thirty (30) days before the giving of notice of such meeting. At the joint meeting, the requested changes or modifications shall be considered and discussed. No such change or modification may materially impair or adversely affect the ability or obligation of any CharterContract Customer under the Contract to make payments to the Commission at the times, in the amounts, and with the priority required in order for the Commission timely to meet its obligations under this Contract, the ~~Chicago~~ Water Supply Contract, other water purchase or sale contracts of the Commission and the Bond Ordinances/Resolutions, including without limitation the making of all deposits in various funds and accounts created under the Bond Ordinances/Resolutions; or materially impair or adversely affect the ability of the holders of the Bonds or the Trustee, under the Contract or Bond Ordinances/Resolutions, to enforce the terms of the Contract. No such change of modification which will affect the rights and interest of the holders of the Bonds shall be made without the written approval of an authorized representative of the holders of at least seventy percent (70%) of the outstanding Bonds and no such change or modification shall be effective which would cause a violation of any provisions of the Bond Ordinances/Resolutions or any ordinance authorizing bonds of any CharterContract Customer.

Section 17. Non-Assignability. Except to the extent hereinafter provided, no party shall assign or transfer this Contract or any rights or interests herein without the written consent of three-fourths of the [CharterContract](#) Customers and the Commission. The right to receive all payments which are required to be made by the [CharterContract](#) Customers to the Commission in accordance with the provisions of this Contract may be assigned by the Commission to any Trustee as provided in the Bond [Ordinances/Resolutions](#) to secure the payment of the principal of, premium, if any, and interest on the Bonds as those amounts come due, subject to the application of those payments as may be provided in the Bond [Ordinances/Resolutions](#). The [CharterContract](#) Customers will, upon notice of assignment to any such Trustee, make all payments directly to such Trustee. The rights of the Commission to enforce the provisions of this Contract may be assigned to such Trustee and, in such event, the Trustee will have the right to enforce this Contract at law or in equity with or without the further consent or participation of the Commission. The Commission may also retain the right to enforce this Contract.

Section 18. Cooperation in Construction of Commission Water Supply. The [CharterContract](#) Customers shall cooperate with the Commission in the construction and acquisition of the Waterworks System. Each [CharterContract](#) Customer shall grant without charge to the Commission any reasonable required construction easements and any easements necessary for portions of the Waterworks System to be located on such [CharterContract](#) Customer's property, provided the Commission agrees to restore the easement property in a reasonable manner after construction. Each [CharterContract](#) Customer shall grant the Commission access to its property to the extent reasonably necessary to construct and [maintain the Waterworks System](#)~~install the points of delivery and the appurtenant devices~~.

Section 19. Mutual Cooperation in Issuance of Obligations. Each [CharterContract](#) Customer shall cooperate with the Commission in the issuance of the Bonds, and the Commission shall cooperate with each [CharterContract](#) Customer in the issuance of the [CharterContract](#) Customer's general obligation bonds or revenue bonds of its Unit System. In such connection, each [CharterContract](#) Customer and the Commission will comply with all reasonable requests of each other and will, upon request, do as follows:

- (i) Make available general and financial information about itself [in accordance with GAAP](#);
- (ii) Consent to publication and distribution of its financial information~~;~~;
- (iii) Certify that general and financial information about it is accurate, does not contain ~~and any~~ untrue statement of a material fact and does not omit to state a material fact necessary in order to make the statements in that information, in light of the circumstances under which they were made, not misleading~~;~~;
- (iv) Make available certified copies of official proceedings~~;~~;

(v) Provide reasonable certifications to be used in a transcript of closing documents; and

(vi) Provide and pay for reasonably requested opinions of counsel as to the validity of its actions taken with respect to and the binding effect of this Contract, title to its Unit System or the Waterworks System, as applicable, pending or threatened litigation which could materially affect its performance hereunder, and other reasonably related opinions.

Section 20. Regulatory Bodies. The parties through this Contract seek to exercise and maintain all sovereign rights granted to them under and through the Constitution and laws of the State of Illinois. This Contract shall be subject to all valid rules, regulations, and laws, applicable hereto passed or promulgated by the United States of America, the State of Illinois, or any governmental body or agency having lawful jurisdiction, or any authorized representative or agency or any of them; provided however, that this clause shall not be construed as waiving the right of either party to challenge the validity of such rule, regulation, or law on any basis, including the impairment of this Contract.

Section 21. Commission Cooperative Arrangements With Other Water Suppliers. Notwithstanding any of the provisions of this Contract, the Commission is not prohibited by this Contract from entering into cooperative arrangements with other suppliers of Lake Water to provide Lake Water to each other to meet their water needs, provided that these arrangements do not interfere, except in emergencies, with the delivery of Lake Water to the CharterContract Customers.

Section 22. Notices and Evidence of Actions. All notices or communications provided for herein shall be in writing and shall be delivered to the CharterContract Customers affected or the Commission either in person or by United States mail, via certifiedregistered mail, return receipt requested, postage prepaid, addressed to the principal office thereof.

Any action hereunder to be taken by the Commission or any CharterContract Customer may be evidenced by copy of official proceedings (including pertinent minutes, motions, resolutions, or ordinances) duly certified by the Clerk of such CharterContract Customer or the Commission.

Section 23. Severability. Should any part, term, or provision of this Contract be determined by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining portions or provisions shall not be affected thereby.

Section 24. Effective Date and Term. ~~For purposes of this Section of the Contract, the following units of local government are included as potential Charter Customers and shall have the MGD value set forth for each in parentheses beside its name:~~

Unit of Local Government and MGD

Village of Addison	(4,980)	Village of Lombard	(4,634)
Village of Bensenville	(2,682)	City of Naperville	(9,624)
Village of Bloomingdale	(2,411)	Village of Oak Brook	(4,219)
Village of Carol Stream	(2,793)	City of Oakbrook Terrace	(0.663)
Village of Clarendon Hills	(0.749)	Village of Roselle	(2.072)
City of Darien	(1.480)	Village of Villa Park	(2.349)
Village of Downers Grove	(6.479)	City of West Chicago	(2.896)
The County of DuPage	(1.492)	Village of Westmont	(1.818)
City of Elmhurst	(6.021)	City of Wheaton	(5.909)
Village of Glendale Heights	(2.211)	Village of Willowbrook	(1.287)
Village of Glen Ellyn	(3.134)	Village of Winfield	(0.856)
Village of Hinsdale	(2.906)	City of Wood Dale	(1.200)
Village of Itasca	(0.700)	Village of Woodridge	(2.599)
Village of Lisle	(2.652)		

~~The Commission shall authorize and execute this Contract and offer it to the aforesaid units. The aforesaid units shall have until September 1, 1986 (the "Charter Date"), to authorize the execution of and execute a counterpart of this Contract as acceptance hereof and to file same with the Clerk of the Commission. This Contract will become effective on the date (the "Effective Date"), which must be on or before February 24, 2024 the Charter Date, upon which said units having an MGD value as listed which have in total sum to an MGD value of 55 or more shall have executed and filed counterparts hereof. Said units may become Charter Customers by executing and filing counterparts hereof after the Effective Date but on or before the Charter Date. If on or before the Charter Date an insufficient number of said units shall have executed counterparts hereof so as to make this Contract effective, then this Contract shall be null and void and of no effect as to the Commission and all units having so executed and filed. If effective as hereinabove provided, This Contract may be executed in counterparts and shall be effective when all the parties have executed this Contract (the "Effective Date"). This Contract shall continue in force and effect until February 24, 2024 2064. The ~~Charter~~Contract Customers and the Commission agree to begin negotiation of a succeeding Water Purchase and Sale Contract not later than five (5) years prior to the end of the term of this Contract.~~

Section 25. Governing Law; Superseder. This Contract shall be construed exclusively under the applicable laws of the State of Illinois. All other contracts between the Commission and the ~~Charter~~Contract Customers are hereby superseded and shall be null and void.

Section 26. Venue. Any action brought to enforce the terms of this Contract shall be brought in the Eighteenth Judicial Circuit, DuPage County, Illinois.

Section 276. Execution in Counterparts. This Contract may be executed in several counterparts, each of which shall be deemed to be an original, and all of which shall constitute but one and the same instrument. Any such counterpart may be signed by one or more of the parties hereto so long as each of the parties hereto has signed one or more of such counterparts.

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

SIGNATURE PAGES TO FOLLOW

VILLAGE OF ADDISON,
ILLINOIS

By ANTHONY RUSSOTTO
President
Date: 8/29/86

[SEAL]

Attest:

By PANOREA LEKKAS
Village Clerk

VILLAGE OF BENSENVILLE,
ILLINOIS

By JOHN C. GEILS
President
Date: 8/29/86

[SEAL]

Attest:

By ELVIRA L. JOHNSON
Village Clerk

VILLAGE OF BLOOMINGDALE,
ILLINOIS

By SAMUEL J. TENUTO
President

Date: 8/29/86

[SEAL]

Attest:

By MARIE E. TAYFEL
Village Clerk

VILLAGE OF CAROL STREAM,
ILLINOIS

By JANICE GERZEVSKE
President

Date: 7/22/86

[SEAL]

Attest:

By CLELA A. MONTGOMERY
Village Clerk

VILLAGE OF CLARENDON
HILLS, ILLINOIS

By ALAN I. HURD
President

Date: 8/4/86

[SEAL]

Attest:

By MARY A. ARNOLD
Village Clerk

CITY OF DARIEN,
ILLINOIS

By ERWIN A. SIROVY
Mayor

Date: 8/27/86

[SEAL]

Attest:

By GERTRUDE M. COIT
City Clerk

VILLAGE OF DOWNERS

GROVE, ILLINOIS

By BETTY M. CHEEVER

Mayor

Date: 8/18/86

[SEAL]

Attest:

By BARBARA WALDNER
Village Clerk

CITY OF ELMHURST,

ILLINOIS

By ROBERT J. QUINN

Mayor

Date: 8/18/86

[SEAL]

Attest:

By DOROTHY L. SCHMIDTKE
Deputy City Clerk

VILLAGE OF GLENDALE

HEIGHTS, ILLINOIS

By JERI SULLIVAN

President

Date: 8/28/86

[SEAL]

Attest:

By PAT ZAGNY
Village Clerk

VILLAGE OF GLEN ELLYN
ILLINOIS

By MICHAEL R. FORMENTO
President

Date: 8/25/86

[SEAL]

Attest:

By WILMA D. LINDE
Village Clerk

VILLAGE OF HINSDALE,
ILLINOIS

By RICHARD L. MILLER, JR.
President

Date: 8/26/86

[SEAL]

Attest:

By ELLEN B. MOONEY
Village Clerk

VILLAGE OF ITASCA, ILLINOIS

By SHIRLEY H. KETTER
President

Date: 8/26/86

[SEAL]

Attest:

By EDWINA SKORA
Village Clerk

VILLAGE OF LISLE, ILLINOIS

By GEORGE A. VARNEY

President

Date: 8/11/86

[SEAL]

Attest:

By MARJORIE M. CONNELLY

Village Clerk

JOSEPHINE A. HIRSMAN

Deputy Clerk

VILLAGE OF LOMBARD,

ILLINOIS

By RICHARD ARNOLD

President

Date: 8/21/86

[SEAL]

Attest:

By LORRAINE G. GERHARDT

Village Clerk

VILLAGE OF NAPERVILLE,

ILLINOIS

By MARGARET P. PRICE

Mayor

Date: 8/5/86

[SEAL]

Attest:

By SUZANNE L. HOLT

City Clerk

VILLAGE OF OAK BROOK,

ILLINOIS

By WENCE F. CERNE

President

Date: 8/12/86

[SEAL]

Attest:

By MARIANNE LAKOSIL

Village Clerk

CITY OF OAKBROOK

TERRACE, ILLINOIS

By RICHARD F. SARALLO

Mayor

Date: 8/27/86

[SEAL]

Attest:

By ROBERTA GRENINGER

City Clerk

VILLAGE OF ROSELLE,

ILLINOIS

By SANDRA J. BIRDSALL

President

Date: 7/7/86

[SEAL]

Attest:

By HARRIET M. WARD

Village Clerk

VILLAGE OF VILLA PARK,

ILLINOIS

By PAUL W. HYDE

President Pro Tem

Date: 8/26/86

[SEAL]

Attest:

By M. CAROL REEDY
Village Clerk

VILLAGE OF WESTMONT,
ILLINOIS

By FRANK H. BELLERIVE
Mayor

Date: 8/28/86

[SEAL]

Attest:

By ELMER FRIES
Village Clerk

CITY OF WHEATON,
ILLINOIS

By ROBERT J. MARTIN
Mayor

Date: 8/25/86

[SEAL]

Attest:

By LILLIAN JOHNSON
City Clerk

VILLAGE OF WILLOWBROOK,
ILLINOIS

By EUGENE NOOSE
President

Date: 8/25/86

[SEAL]

Attest:

By DARLENE WILSON
Deputy Village Clerk

CITY OF WOOD DALE,
ILLINOIS

By JERRY C. GREER
Mayor

Date: 8/25/86

[SEAL]

Attest:

By GERALDINE JACOBS
City Clerk

VILLAGE OF WOODRIDGE,
ILLINOIS

By WILLIAM F. MURPHY, JR.
Mayor

Date: 8/28/86

[SEAL]

Attest:

By DOROTHY M. STAHL
Village Clerk

DuPAGE WATER COMMISSION

By GEORGE CONGREVE
Chairman

Date: 8/29/86

[SEAL]

Attest:

By PETER W. ERNST
Clerk

MEMORANDUM

To:	Paul May, General Manager, DuPage Water Commission
From:	DWC Customer Contract Review Steering Committee: <i>Darrell Blenniss, Naperville</i> <i>Dan Dinges, Bartlett</i> <i>Kathleen Gargano, Hinsdale</i> <i>John Hubsky, Glen Ellyn</i> <i>Nick Kottmeyer, DuPage County</i> <i>Peter Scalera, Bloomingdale</i> <i>Al Stonitsch, Woodridge</i> <i>Rick Valent, Oak Brook</i>
Re:	DuPage Water Commission Customer Contract Review
Date	August 28, 2023

Purpose and Action Requested

The purpose of this memorandum is to provide an update on the Steering Committee’s (“the Committee”) review of the DuPage Water Commission’s (“DWC”) proposed Customer Water Contract (“the Contract”) extension.

Background/Discussion

In preparation for the February 2024 customer contract expiration, DWC solicited the formation of an advisory steering committee comprised of contract customers to provide input and advice on a new Contract extension. The Committee was established in June 2019, and was comprised of a cross-section of DWC customers. The customers on the Committee were: Bartlett, Bloomingdale, DuPage County, Glen Ellyn, Hinsdale, Naperville, Oak Brook, and Woodridge. The Committee met multiple times in 2019 as it undertook a comprehensive review of the Contract. The Committee also held an informational session for all Customers in January 2020. The Committee’s work was subsequently put on hold due to the COVID-19 pandemic. Following DWC’s hiring of new General Manager (Paul May), the Committee was asked to reconvene in October 2022 to continue its advisory work on a new Contract extension.

The Committee met several times with DWC leadership to provide input on potential amendments, and to also review and respond to DWC’s proposed changes. In addition, the Committee solicited an independent legal review of the proposed Contract from both the City of Naperville’s legal counsel and the DuPage County State’s Attorney’s Office. Legal counsel from both agencies conducted their own reviews of the amended document, and worked

directly with DWC's legal counsel to review and discuss various updates to the proposed final draft.

In addition to conducting a review of the Contract, the Steering Committee also initiated a review of the DWC's by-laws and provided extensive input and comments for DWC leadership's further review and consideration.

Recommendation

The Committee, on behalf of the DWC Customers, has completed its good faith, independent review of the DWC's proposed new water supply contract, and has had an opportunity to provide DWC leadership meaningful input throughout the process. The Committee, therefore, supports and endorses the distribution of this final draft to DWC customers for their review and would recommend its approval.



Resolution #: R-51-23

Account: 01-60-629000, 01-60-685100

Approvals: *Author / Manager / Finance / Admin*

DC RCB CAP PDM

REQUEST FOR BOARD ACTION

Date: 9/14/2023

Description: A Resolution Suspending Purchasing Procedures and Approving the Renewal of the Unitrends Retention Services and the Purchase and Installation of a New Unitrends Appliance.

Agenda Section: Administration Committee

Originating Department: Information Technology

The Commission utilizes ITSavvy, LLC. for Consulting and Network Support Services related to the Commission's Servers, Firewalls, Switches, Storage Area Network (SAN), Back-up Systems, Cloud Storage, Wireless Network, and various other Information Technology (IT) projects that may arise.

In 2018, ITSavvy connected the Commission with one of their partners that specializes in network data retention and restoration, Unitrends. The Commission has since utilized Unitrends to back up the Enterprise Network and ancillary systems utilizing specialized hardware and cloud services that allow for 30 days of onsite and one year of cloud data retention. This capability has been critical for creating a resilient Enterprise Network environment and has proven useful time and time again while maintaining the Commission's systems.

The Commission is coming to the end of its current 3-year agreement with Unitrends retention services as well as reaching the end-of-life timeframe with the current Unitrends appliance. The Commission has been pleased with the service provided by Unitrends since 2018, and would like to maintain consistency with the established services. Therefore, staff is recommending the renewal of a 3-year agreement maintaining the local and cloud retention services as well as the purchase of a new Unitrends appliance for onsite storage. The new hardware will replace the existing unit that has reached its end-of-life as well as increase the storage capacity from 16 TB to 24 TB to allow for the anticipated growth of the Enterprise Network. The renewal of the 3-year agreement and purchase of the new Unitrends appliance with the installation services is \$83,137.17, with the cost breakdown indicated below:

Unitrends 3-Year Data Retention Agreement:	\$54,040.48
Unitrends 9024S Appliance & Installation Services:	\$29,096.69
Total:	\$83,137.17

Recommended Motion: To approve Resolution No. R-51-23.

DUPAGE WATER COMMISSION

RESOLUTION NO. R-51-23

A RESOLUTION SUSPENDING THE PURCHASING PROCEDURES AND APPROVING
THE RENEWAL OF THE UNITRENDS RETENTION SERVICES AND THE PURCHASE AND INSTALLATION
OF A NEW UNITRENDS APPLIANCE FROM IT SAVVY, LLC.

WHEREAS, the Commission was formed and exists pursuant to 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., for the purpose of securing an adequate source and supply of water for its customers; and

WHEREAS, the DuPage Water Commission received a price quotation from IT Savvy LLC, dated August 9, 2023, in the amount of \$83,137.17 for renewal of a 3-year retention service agreement and the purchase of a new Unitrends appliance as requested by Commission staff; and

WHEREAS, the Board of Commissioners of the DuPage Water Commission believes it is in the best interest of the Commission to suspend purchasing procedures and accept the price quotation offered by IT Savvy LLC to renew the 3-year retention service agreement and purchase a new Unitrends appliance as requested by Commission staff;

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

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

SECTION TWO: The price quotation of IT Savvy LLC, dated as of August 9, 2023, for renewal of a 3-year retention service agreement and the purchase of a new Unitrends appliance as requested by Commission staff shall be and hereby is approved and accepted by the Board of Commissioners of the

DuPage Water Commission in the amount of \$83,137.17 necessary to effect the renewal of the agreement and the purchase of said hardware is hereby approved without further act.

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

	Aye	Nay	Absent	Abstain
Bouckaert, D.				
Cuzzone, N.				
Fennell, J.				
Healy, J.				
Novotny, D.				
Pruyn, J.				
Romano, K.				
Rush, K.				
Russo, D.				
Saverino, F.				
Suess, P.				
Van Vooren, D.				
Zay, J.				

ADOPTED THIS ___ DAY OF _____, 2023.

James Zay, Chairman

ATTEST:

Danna Mundall, Clerk

Board/Resolutions/2023/R-51-23.docx

EXHIBIT 1

DELETE PAGE IF NO ATTACHMENT



ITsavvy LLC
 313 South Rohlwing Road
 Addison, IL 60101
 www.ITsavvy.com

Quote Details	
Quote #:	3747318
Date:	08/09/2023
Payment Method:	Net 30 Days
Client PO#:	
Cost Center:	
Shipping Method:	Ground

Quote

Bill To:
 ACCT #: 550938
 DuPage Water Commission
 Accounts Payable
 600 East Butterfield Road
 Elmhurst, IL 60126
 United States
 630-516-1918

Ship To:
 DuPage Water Commission
 Denis Cuvalo
 600 E Butterfield Rd
 Elmhurst, IL 60126-4642
 United States
 630-834-0100

Client Contact:
 Denis Cuvalo
 (P) 630-834-0100
 cuvalo@dpwc.org

Client Executive:
 Jim Mundall
 (P) 630.396.6311
 (F) 630.396.6322
 jmundall@ITsavvy.com

Description: Unitrends Recovery 9024S Appliance Bundle 12-23-2023 - 12-31-2026

Item Description	Part #	Tax	Qty	Unit Price	Total
1 Unitrends Recovery 9024S Appliance Bundle with Unitrends Enterprise Plus & Platinum Support Eff Dates: 12-23-2023 - 12-31-2026	22656985	Y	1	\$28,249.02	\$28,249.02
2 Forever Cloud 500GB with DRaaS -1 Year Retention Forever Cloud 500GB with DRaaS -1 Year Retention - Annual Subscription Eff Dates: 12-23-2023 - 12-31-2026	23867956	Y	16	\$3,377.53	\$54,040.48
3 Per-premise SureEssentials installation services for Hardware One Time Purchase Eff Dates: 12-23-2023 - 12-31-2026	23116353	Y	1	\$847.67	\$847.67

Fair Market Value		\$1 Buy Out	
36 Month FMV / MO	60 Month FMV / MO	36 Month \$1 / MO	60 Month \$1 / MO
\$2,475.58	\$1,636.64	\$2,705.28	\$1,734.91

Lease estimates are based upon final individual credit review and approval. Your final payment options may be higher / lower based upon credit review. Payments do not include sales tax. Other lease terms are also available. Contact us to learn more.

Subtotal: \$83,137.17
 Shipping: \$0.00
 Tax: Exempt
TOTAL: \$83,137.17

ITsavvy is always looking to deliver the lowest cost possible to our clients. This results in fluctuating prices that you will find are lower more often than not. However, prices are subject to increases without notice in the event of a manufacturer or distributor price increase. Available inventory is subject to change without notice. This document is a quotation only and is not an order or offer to sell.

We do accept credit cards for payment. However, if the credit card is provided after the order has been invoiced there will be a charge of 3% of the total purchase.

Unless specifically listed above, these prices do NOT include applicable taxes, insurance, shipping, delivery, setup fees, or any cables or cabling services or material.

ITsavvy's General Terms and Conditions of Sale, which can be found at www.ITsavvy.com/termsandconditions, shall apply to and are incorporated into all agreements with Client, including all Orders.

Printed Name: _____ Title: _____
 Authorized Signature: _____ Date: _____