



DuPage Water Commission

600 E. Butterfield Road, Elmhurst, IL 60126-4642
(630)834-0100 Fax: (630)834-0120

AGENDA

ENGINEERING & CONSTRUCTION COMMITTEE
THURSDAY, APRIL 19, 2018
6:00 P.M.

600 EAST BUTTERFIELD ROAD
ELMHURST, IL 60126

COMMITTEE MEMBERS

D. Loftus, Chair
J. Fennell
F. Saverino
M. Scheck
J. Zay

- I. Roll Call
- II. Approval of Committee Meeting Minutes

RECOMMENDED MOTION: To approve the Minutes of the March 15, 2018 Engineering & Construction Committee Meeting of the DuPage Water Commission.

- III. Report of Status of Construction/Operations
- IV. **R-8-18:** A Resolution Approving and Authorizing the Execution of Master Agreements with Dixon Engineering, Inc. and Robinson Engineering, Ltd. for Professional Engineering Services **(No Cost Component for This Action)**
- V. **R-11-18:** A Resolution Approving and Ratifying Certain Work Authorization Orders Under Quick Response Electrical Contract QRE-8/17 **(WAO 8.001 – McWilliams Electric Co. Inc. – Estimated Cost of \$13,310.00)**
- VI. Discussion regarding the Commission's Energy Efficient LED Lighting Project
- VII. Old Business
- VIII. Other
- IX. Adjournment

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

**MINUTES OF A MEETING OF THE
ENGINEERING & CONSTRUCTION COMMITTEE
OF THE DuPAGE WATER COMMISSION
HELD ON THURSDAY, MARCH 15, 2018
600 EAST BUTTERFIELD ROAD
ELMHURST, ILLINOIS**

The meeting was called to order at 6:00 P.M.

Committee members in attendance: J. Fennell, D. Loftus and J. Zay

Committee members absent: F. Saverino and M. Scheck

Also in attendance: C. Bostick, E. Kazmierczak, J. Spatz and M. Weed.

Commissioner Fennel moved to approve the Minutes of the February 15, 2018 Engineering & Construction Committee Meeting of the DuPage Water Commission. Motion seconded by Chairman Zay.

Ayes: J. Fennell, D. Loftus, and J. Zay

Nays: None

Absent F. Saverino and M. Scheck

Regarding R-10-18 Facilities Construction Supervisor Bostick advised the Committee that this item is requesting approval to purchase a replacement audio conference system for the Public Meeting Room and an improvement by adding a system to Conference Room 204. General Manager Spatz indicated that this item while budgeted requires Board approval due to the suspension of Commission Purchasing Procedures by not receiving sealed quotations.

Regarding the Village of Bartlett water service, Facilities Construction Supervisor Bostick advised the Committee that Benchmark Construction is preparing to commence construction of the West Transmission Main in the upcoming weeks. Facilities Construction Supervisor Bostick also advised the Committee that Greeley and Hansen is progressing on the preliminary design of the Bartlett connection facilities and the engineering work is on schedule.

Regarding R-9-18, Facilities Construction Supervisor Bostick advised the Committee that this item is requesting approval of a two-year soils and material testing service contract with Construction and Geotechnical Material Testing (CGMT), Inc. to oversee excavation, backfilling and concrete related construction for the duration of the Bartlett projects and other projects as they arise. Facilities Construction Supervisor Bostick advised the Committee of the seven (7) bids received, the bid of CGMT, Inc. was the most favorable to the Commission.

Engineering Committee Minutes 03/15/2018

Regarding R-6-18, Facilities Construction Supervisor Bostick advised the Committee that this item is requesting approval of Task Order No. 9 with AECOM Technical Services to perform hydraulic modeling: perform "Extended Period Simulation" to assist in determining an operational strategy for the replacement of the 60-inch diameter valve in Oakbrook Terrace; to provide hydraulic grade line information to the Village of Bartlett to assist in their design of their Rate Control Station; and, to model the effects on the system for potential new customer connections such as Oswego and Yorkville.

Chairman Loftus inquired with the Committee if there were any questions regarding the action items. Hearing none, Commissioner Fennell moved to recommend approval of items 2 through 4 of the Engineering and Construction Committee portion of the Commission Agenda. Seconded by Chairman Zay.

Ayes: J. Fennell, D. Loftus, and J. Zay

Nays: None

Absent F. Saverino and M. Scheck

Chairman Loftus inquired the Committee if any other business or other items to be discussed.

Facilities Construction Supervisor Bostick reminded the Committee of the proposed lock replacement program and Staff would be pursuing the use of a joint purchasing contract with a Government Services Administration (GSA) pre-approved service provider who will be visiting the sites to develop a quotation for the work. Facilities Construction Supervisor Bostick advised the Committee of Staff's intention to bring forth a recommendation to the April Commission meeting to authorize the purchase of the materials and services.

With no other items coming before the Committee, Commissioner Fennell moved to adjourn the meeting at 6:13 P.M. Motion seconded by Chairman Zay.

Ayes: J. Fennell, D. Loftus, and J. Zay

Nays: None

Absent F. Saverino and M. Scheck



DuPage Water Commission

MEMORANDUM

TO: John Spatz
General Manager

FROM: Terry McGhee
Manager of Water Operations

Ed Kazmierczak	Pipeline Supervisor
Chris Bostick	Facilities Construction Supervisor
John Schori	Instrumentation Supervisor
Frank Frelka	GIS Coordinator
Mike Weed	Operations Supervisor

DATE: April 11, 2018

SUBJECT: Status of Operations

Operations Overview

The Commission's sales for the month of March were a total of 1.98 billion gallons. This represents an average day demand of 63.7 million gallons per day (MGD), which is higher than the March 2017 average day demand of 62.3 MGD. The maximum day demand was 68.3 MGD recorded on March 19, 2018, which is higher than the March 2017 maximum day demand of 65.6 MGD. The minimum day flow was 58.4 MGD.

The Commission's recorded total precipitation for the month of March was 1.74 inches compared to 3.89 inches for March 2017. The level of Lake Michigan for January 2018 is 579.9 (Feet IGLD 1985) compared to 579.2 (Feet IGLD 1985) for March of 2017

Water Conservation

AP Environmental Science students from Downers Grove North High School attended a presentation and tour at the Commission on April 3rd and April 6th, 2018. A memo regarding this is available on dpwc.org/conservation/events/.

Staff will be attending Glendale Heights' Senior Center Lunch & Learn to present on water quality and conservation along with Glendale Heights' Green Team on April 13, 2018.

The Commission is partnering with SCARCE to be one of the sponsors for Glen Ellyn Public Library's three-month project on water conservation and quality starting on May 25, 2018.

Ongoing: Staff is working with the Villages of Clarendon Hills and Westmont on the design of the Richmond Education Gardens & Apiary underground cistern system that the Commission will help sponsor.

Ongoing: Staff is working with SCARCE to earn their Earth Flag. The process consists of a green audit, staff training in recycling and conservation, an action that involves the Commission in the community (i.e. a book drive, cleaning a creek, adopting a highway, etc.), and finally presenting the Earth Flag to the Board Members. Staff has completed the green audit and is working with SCARCE to set up dates for staff training.

Facilities Maintenance

Staff is working on a project to install high efficiency LED lighting fixtures for the DuPage Pumping Station and Administration facilities. This project was identified in the 2014/2015 Condition Assessment and was included in the Commission's Five-Year Capital Improvement Plan.

Bartlett Water Service

Benchmark Construction has begun installing pipe along Central Ave. in Roselle. Meanwhile, Benchmark continues to provide various Shop Drawing Submittals and Requests For Information.

Greeley and Hansen have delivered the 60% preliminary design for the Bartlett Connection Facilities where Staff will be reviewing and providing their comments. The design project remains on schedule.

Instrumentation / Remote Facilities Overview

Flow Meter Replacement Project

The Flow Meter Replacement Project Contract with Mecon Industries to replace water meters at the Commission's meter stations is ongoing and is anticipated to be complete in early Summer 2018.

Quick Response Electrical Contract (QRE-8/17)

On the agenda for consideration is R-11-18; Work Authorization Order No. 001 to McWilliams Electric Co., Inc. for various electrical repairs at various sites including: electrical service entrance repairs at six (6) metering stations, remove and replace an entire breaker panel at a single metering station, and alleviate groundwater penetration into an underground conduit at Tank Site No. 3.

Pipeline Maintenance and Construction Overview

Staff continues inspection and repair work on distribution system blow off valves.

Installation of a 60" diameter butterfly valve located in the City of Oakbrook Terrace has been placed on hold while staff investigates alterative options.

APRIL 2018 COMMISSION AGENDA ITEMS:

- R-8-18:** A Resolution Approving and Authorizing the Execution of Master Agreements with Dixon Engineering, Inc. and Robinson Engineering, Ltd. for Professional Engineering Services **(No Cost Component for This Action)**
- R-11-18:** A Resolution Approving and Ratifying Certain Work Authorization Orders Under Quick Response Electrical Contract QRE-8/17 **(WAO 8.001 – McWilliams Electric Co. Inc. – Estimated Cost of \$13,310.00)**

Attachments

1. DuPage Laboratory Bench Sheets for March 2018
2. Water Sales Analysis 01-May-2014 to 31 March-2018
3. DuPage Water Commission Chart Sales vs. Historical Average
4. DuPage Water Commission Chart Sales vs. Allocation

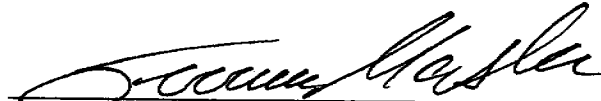
<http://sp2013/Status%20of%20Operations/2018/0402.docx>

DUPAGE WATER COMMISSION LABORATORY BENCH SHEET
MONTHLY REPORT FOR MARCH 2018

LEXINGTON SUPPLY

DUPAGE DISCHARGE

DAY	FREE CL ₂	TURBIDITY	PO ₄	FREE CL ₂	TURBIDITY	TEMP	pH	Fluoride	PO ₄	P.A.C.	ANALYST
	mg/l	NTU	mg/l	mg/l	NTU	°F			mg/l		
1	1.07	0.06	0.54	0.82	0.11	51	7.8	0.8	0.63	0	KD
2	1.00	0.06	0.53	0.84	0.10	51	7.8	0.8	0.59	0	KD
3	1.00	0.06	0.55	0.84	0.09	52	7.8	0.8	0.58	0	AM
4	1.10	0.07	0.57	0.82	0.09	52	7.8	0.8	0.60	0	AM
5	1.10	0.06	0.57	0.80	0.08	52	7.8	0.8	0.53	0	KD
6	1.00	0.06	0.53	0.84	0.09	52	7.8	0.8	0.56	0	KD
7	1.00	0.06	0.57	0.80	0.08	52	7.8	0.9	0.54	0	AM
8	1.10	0.07	0.59	0.83	0.09	50	7.8	0.8	0.54	0	AM
9	1.00	0.08	0.55	0.83	0.09	50	7.8	0.8	0.53	0	AM
10	1.00	0.08	0.56	0.83	0.09	51	7.8	0.8	0.56	0	KD
11	0.96	0.06	0.55	0.75	0.08	51	7.8	0.7	0.59	0	KD
12	1.00	0.08	0.54	0.83	0.10	50	7.8	0.8	0.53	0	AM
13	1.00	0.08	0.57	0.81	0.10	50	7.8	0.7	0.53	0	AM
14	0.97	0.06	0.53	0.78	0.08	51	7.8	0.8	0.59	0	KD
15	1.02	0.08	0.51	0.84	0.11	51	7.8	0.8	0.53	0	KD
16	1.08	0.15	0.54	0.79	0.14	51	7.8	0.7	0.50	0	KD
17	1.00	0.14	0.55	0.84	0.11	51	7.8	0.8	0.59	0	CT
18	1.00	0.09	0.50	0.82	0.14	53	7.9	0.8	0.53	0	CT
19	0.93	0.06	0.50	0.78	0.12	51	7.8	0.9	0.56	0	KD
20	1.05	0.19	0.53	0.81	0.10	52	7.8	0.8	0.53	0	KD
21	1.00	0.10	0.56	0.78	0.09	52	7.8	0.8	0.52	0	CT
22	0.96	0.08	0.50	0.78	0.09	52	7.8	0.8	0.50	0	CT
23	1.00	0.08	0.54	0.74	0.09	52	7.8	0.7	0.50	0	CT
24	0.99	0.06	0.51	0.84	0.08	54	7.8	0.9	0.54	0	RC
25	1.00	0.06	0.53	0.83	0.09	54	7.8	0.9	0.52	0	RC
26	0.93	0.09	0.52	0.72	0.08	56	7.9	0.8	0.50	0	CT
27	1.10	0.06	0.54	0.77	0.08	52	7.9	0.8	0.56	0	CT
28	1.02	0.09	0.51	0.83	0.08	53	7.7	0.9	0.51	0	RC
29	1.09	0.06	0.52	0.81	0.08	54	7.7	0.8	0.50	0	RC
30	1.02	0.07	0.50	0.90	0.08	53	7.7	0.9	0.55	0	RC
31	1.10	0.09	0.51	0.75	0.08	54	7.9	0.8	0.54	0	CT
AVG	1.02	0.08	0.54	0.81	0.09	52	7.8	0.8	0.54	0	
MAX	1.10	0.19	0.59	0.90	0.14	56	7.9	0.9	0.63	0	
MIN	0.93	0.06	0.50	0.72	0.08	50	7.7	0.7	0.50	0	



Terrance McGhee
Manager of Water Operations

DU PAGE WATER COMMISSION
WATER SALES ANALYSIS

01-May-92 TO 31-Mar-18

PER DAY AVERAGE 79,277,858

MONTH	SALES TO CUSTOMERS (GALLONS)	PURCHASES FROM CHICAGO (GALLONS)	GALLONS BILLED %	BILLINGS TO CUSTOMERS	BILLINGS FROM CHICAGO	DOCUMENTED COMMISSION WATER USE (2)	DOCUMENTED COMMISSION WATER USE %	TOTAL ACCOUNTED FOR %	DWC OPER. & MAINT. RATE (3)	CHGO RATE
May-15	2,215,394,000	2,283,051,057	97.04%	\$10,744,660.90	\$8,705,273.68	649,444	0.03%	97.06%	\$4.85	\$3.813
Jun-15	2,196,780,000	2,266,453,659	96.93%	\$10,654,383.00	\$8,641,987.80	468,148	0.02%	96.95%	\$4.85	\$3.813
Jul-15	2,448,256,000	2,522,028,667	97.07%	\$11,874,041.60	\$9,616,487.68	6,454,619	0.26%	97.33%	\$4.85	\$3.813
Aug-15	2,723,202,000	2,807,092,033	97.01%	\$13,207,529.70	\$10,703,441.92	1,048,363	0.04%	97.05%	\$4.85	\$3.813
Sep-15	2,341,098,000	2,428,433,496	96.40%	\$11,354,325.30	\$9,259,616.92	870,425	0.04%	96.44%	\$4.85	\$3.813
Oct-15	2,188,762,000	2,250,656,585	97.25%	\$10,615,495.70	\$8,581,753.56	1,989,028	0.09%	97.34%	\$4.85	\$3.813
Nov-15	1,894,247,000	1,942,187,317	97.53%	\$9,187,097.95	\$7,405,560.24	1,150,890	0.06%	97.59%	\$4.85	\$3.813
Dec-15	1,953,066,000	2,011,680,976	97.09%	\$9,472,370.10	\$7,670,539.56	516,414	0.03%	97.11%	\$4.85	\$3.813
Jan-16	2,033,443,000	2,091,170,472	97.24%	\$9,862,198.55	\$7,973,633.01	862,718	0.04%	97.28%	\$4.85	\$3.813
Feb-16	1,888,296,000	1,941,985,366	97.24%	\$9,158,235.60	\$7,404,790.20	563,984	0.03%	97.26%	\$4.85	\$3.813
Mar-16	1,944,058,000	1,996,231,707	97.39%	\$9,428,681.30	\$7,611,617.24	6,400,732	0.32%	97.71%	\$4.85	\$3.813
Apr-16	1,984,449,000	2,039,789,593	97.29%	\$9,624,577.65	\$7,777,717.72	9,448,858	0.46%	97.75%	\$4.85	\$3.813
May-16	2,268,225,000	2,338,752,195	96.98%	\$10,887,480.00	\$8,917,662.12	274,300	0.01%	97.00%	\$4.80	\$3.813
Jun-16	2,454,342,000	2,529,910,244	97.01%	\$11,780,841.60	\$9,646,547.76	5,182,282	0.20%	97.22%	\$4.80	\$3.813
Jul-16	2,641,551,000	2,744,681,626	96.24%	\$12,679,444.80	\$10,465,471.04	585,600	0.02%	96.26%	\$4.80	\$3.813
Aug-16	2,533,936,000	2,608,237,398	97.15%	\$12,162,892.80	\$9,945,209.20	701,544	0.03%	97.18%	\$4.80	\$3.813
Sep-16	2,369,372,000	2,450,251,707	96.70%	\$11,372,985.60	\$9,342,809.76	6,309,731	0.26%	96.96%	\$4.80	\$3.813
Oct-16	2,060,379,000	2,130,675,122	96.70%	\$9,889,819.20	\$8,124,264.24	3,337,311	0.16%	96.86%	\$4.80	\$3.813
Nov-16	1,889,508,000	1,958,403,252	96.48%	\$9,069,638.40	\$7,467,391.60	9,473,395	0.48%	96.97%	\$4.80	\$3.813
Dec-16	2,041,053,000	2,106,979,512	96.87%	\$9,797,054.40	\$8,033,912.88	750,196	0.04%	96.91%	\$4.80	\$3.813
Jan-17	2,029,392,000	2,086,470,244	97.26%	\$9,741,081.60	\$7,955,711.04	650,780	0.03%	97.30%	\$4.80	\$3.813
Feb-17	1,780,930,000	1,839,102,439	96.84%	\$8,548,464.00	\$7,012,497.60	502,527	0.03%	96.86%	\$4.80	\$3.813
Mar-17	1,921,309,000	1,973,392,520	97.36%	\$9,222,283.20	\$7,524,545.68	6,065,580	0.31%	97.67%	\$4.80	\$3.813
Apr-17	1,924,126,000	1,983,669,593	97.00%	\$9,235,804.80	\$7,563,732.16	662,965	0.03%	97.03%	\$4.80	\$3.813
May-17	2,140,566,000	2,206,451,707	97.01%	\$10,445,962.08	\$8,413,200.36	379,600	0.02%	97.03%	\$4.88	\$3.813
Jun-17	2,572,903,000	2,661,987,535	96.65%	\$12,555,766.64	\$10,336,497.60	667,640	0.03%	96.68%	\$4.88	\$3.883
Jul-17	2,566,373,000	2,651,891,218	96.78%	\$12,523,900.24	\$10,297,293.60	1,208,200	0.05%	96.82%	\$4.88	\$3.883
Aug-17	2,612,422,000	2,708,475,467	96.45%	\$12,748,619.36	\$10,517,010.24	819,943	0.03%	96.48%	\$4.88	\$3.883
Sep-17	2,649,184,000	2,745,958,980	96.48%	\$12,928,017.92	\$10,662,558.72	4,256,488	0.16%	96.63%	\$4.88	\$3.883
Oct-17	2,162,489,000	2,234,875,921	96.76%	\$10,552,946.32	\$8,678,023.20	9,352,175	0.42%	97.18%	\$4.88	\$3.883
Nov-17	1,910,959,000	1,985,437,054	96.25%	\$9,325,479.92	\$7,709,452.08	11,479,542	0.58%	96.83%	\$4.88	\$3.883
Dec-17	2,030,983,000	2,097,595,921	96.82%	\$9,911,197.04	\$8,144,964.96	1,385,950	0.07%	96.89%	\$4.88	\$3.883
Jan-18	2,125,171,000	2,190,683,966	97.01%	\$10,370,834.48	\$8,506,425.84	2,817,595	0.13%	97.14%	\$4.88	\$3.883
Feb-18	1,845,800,000	1,908,547,989	96.71%	\$9,007,504.00	\$7,410,891.84	952,406	0.05%	96.76%	\$4.88	\$3.883
Mar-18	1,968,078,000	2,042,126,006	96.37%	\$9,604,220.64	\$7,929,575.28	590,499	0.03%	96.40%	\$4.88	\$3.883
TOTALS (1)	750,444,202,798	771,832,860,576	97.23%	\$1,475,768,791.37	\$1,335,452,136.77	768,733,592	0.10%	97.33%	\$1.97	\$1.730

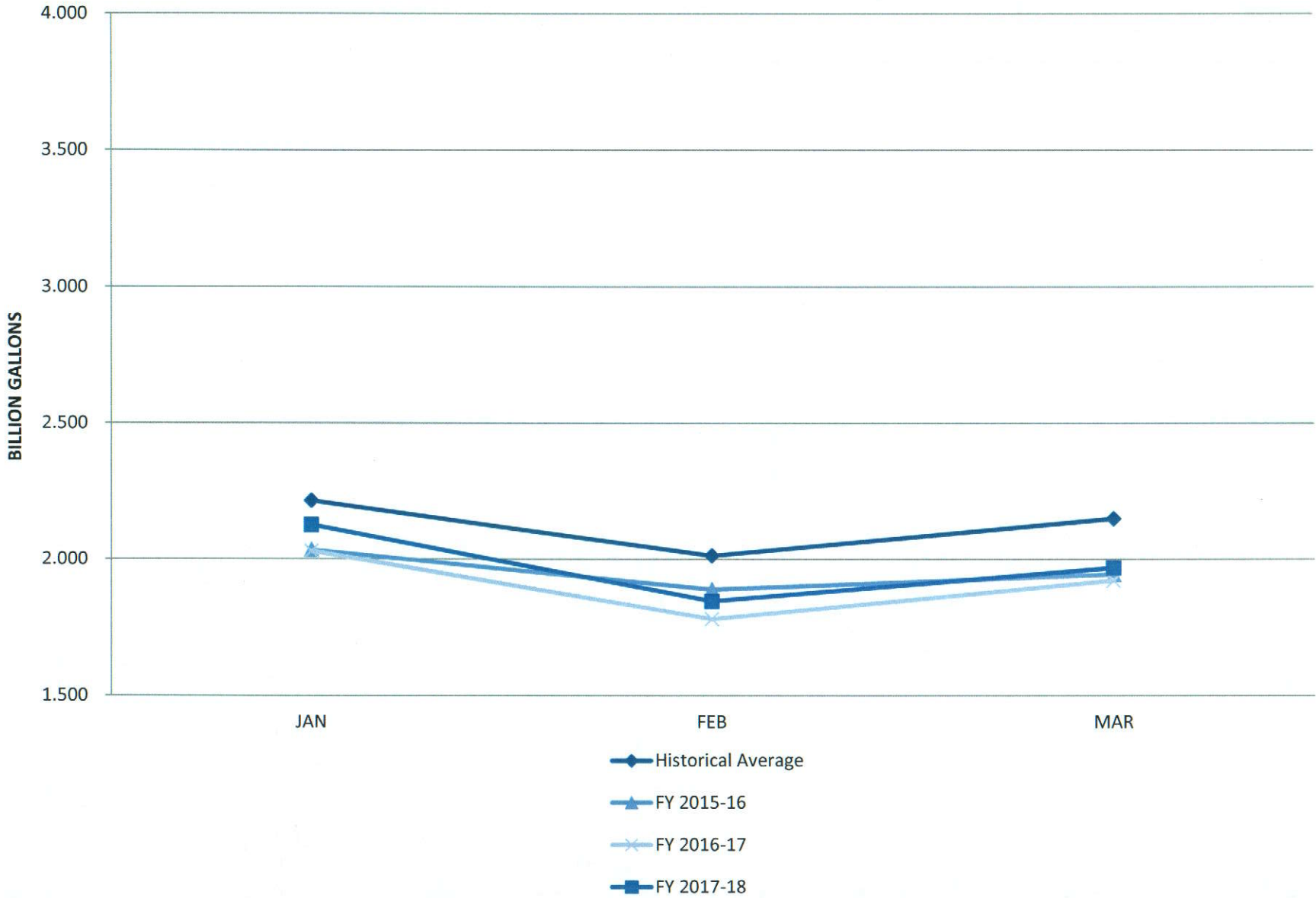
(1) - SINCE MAY 1, 1992

(2) - REPRESENTS DU PAGE PUMP STATION, METER TESTING AND CONSTRUCTION PROJECT USAGE

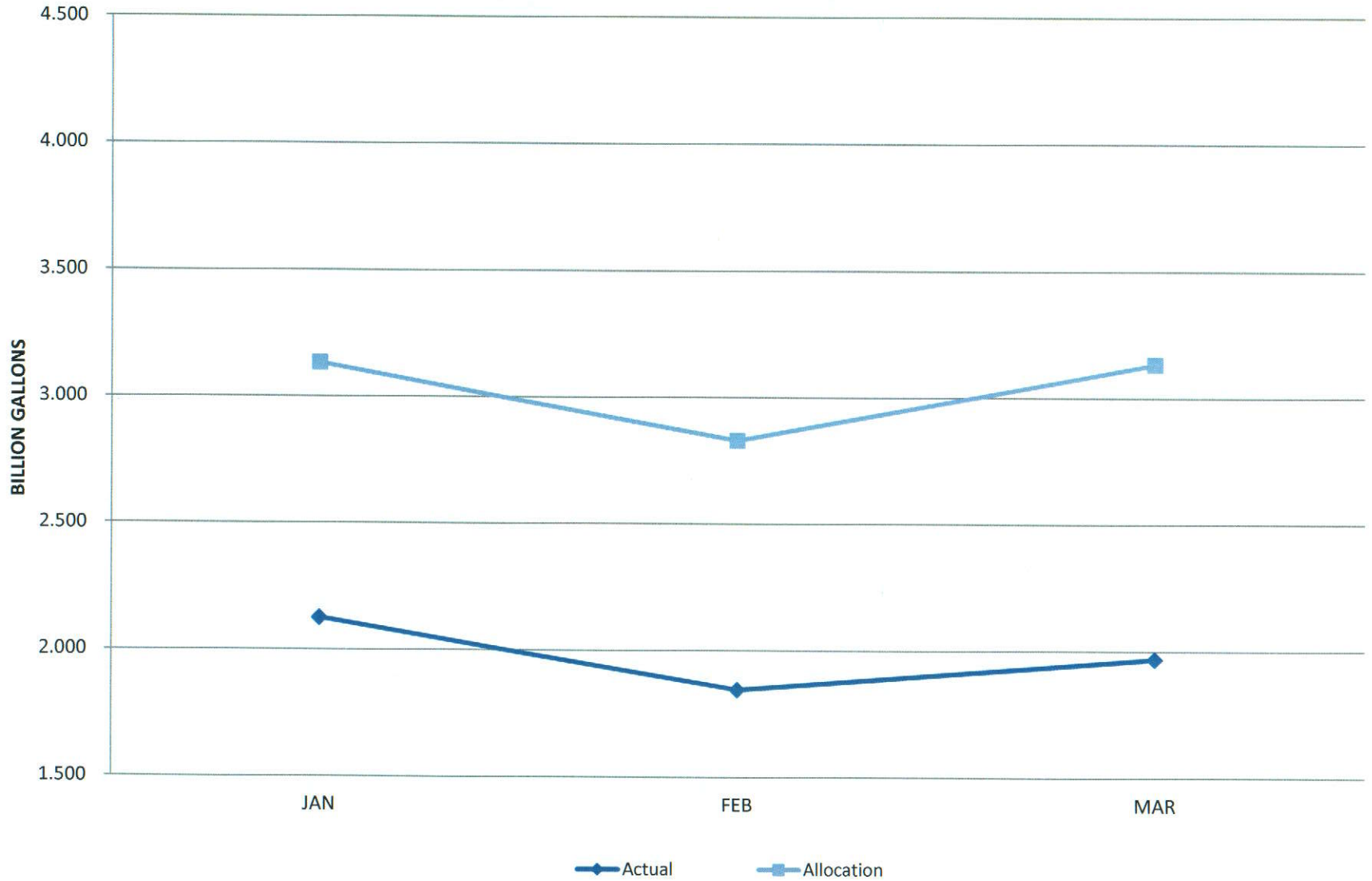
(3) - DOES NOT INCLUDE FIXED COST PAYMENTS

YTD	Month	Mar-17	Mar-18	Mar-17	Mar-18	Mar-17	Mar-18	Mar-17	Mar-18	Mar-17	Mar-18		
		23,989,997,000	24,584,928,000	24,766,856,259	25,434,031,764	96.86%	96.66%	115,151,986	119,974,449	94,436,023	98,605,894	\$4.80	\$3.813
		594,931,000	667,175,505	667,175,505				\$4,822,463	\$4,169,871			\$4.88	\$3.877
		2.5%	2.7%	2.7%				4.2%	4.4%				
		1,921,309,000	1,968,078,000	1,973,392,520	2,042,126,006	97.36%	96.37%	9,222,283	9,604,221	7,524,546	7,929,575	\$4.80	\$3.813
		46,769,000	68,733,486	68,733,486				\$381,937	\$405,030			\$4.88	\$3.883
		2.4%	3.5%	3.5%				4.1%	5.4%				
	Mar>Feb	122,278,000		133,578,017				596,717	518,683				

DU PAGE WATER COMMISSION SALES FY 2017-18, 2016-17 & 2015-16 VS. HISTORICAL AVERAGE




DU PAGE WATER COMMISSION SALES FY 2017-18 VS. ALLOCATION



Date: April 12, 2018

REQUEST FOR BOARD ACTION

AGENDA SECTION	Omnibus Vote Requiring Super-Majority or Special Majority Vote	ORIGINATING DEPARTMENT	Facilities Construction
ITEM	A Resolution Approving and Authorizing the Execution of a Master Agreement with Dixon Engineering, Inc. and Robinson Engineering, Ltd. for Professional Engineering Services Resolution No. R-8-18	APPROVAL	
Account Nos: Various			
<p>As directed by the Board of Commissioners to engage additional consulting firms and update existing contract provisions; R-8-18 would authorize the General Manager to enter into a Master Agreement with Dixon Engineering, Inc. and Robinson Engineering, Ltd. for professional engineering services in connection with various projects as they arise. This master agreement would allow the Commission to obtain from time to time professional engineering services in connection with the design and construction of extensions and improvements to the waterworks system and other projects of the Commission. This master agreement would allow for the ease of administration between the Commission and Dixon Engineering, Inc. to work under pre-agreed upon terms, conditions, and rates for such discrete projects described in Task Orders to be approved by the Commission and Dixon Engineering, Inc. and separately by the Commission and Robinson Engineering, Ltd.</p>			
MOTION: To adopt Resolution No. R-8-18.			

DUPAGE WATER COMMISSION

RESOLUTION NO. R-8-18

A RESOLUTION APPROVING AND AUTHORIZING
THE EXECUTION OF A MASTER AGREEMENT WITH
DIXON ENGINEERING, INC. AND ROBINSON ENGINEERING, LTD.
FOR PROFESSIONAL ENGINEERING SERVICES

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 Commission desires to obtain from time to time, and Dixon Engineering, Inc. (a Consultant), desires to provide from time to time, professional engineering services in connection with the design and construction of extensions and improvements to the Waterworks System and other projects of the Commission; and

WHEREAS, the Commission desires to obtain from time to time, and Robinson Engineering, Ltd., (a Consultant), desires to provide from time to time, professional engineering services in connection with the design and construction of extensions and improvements to the Waterworks System and other projects of the Commission; and

WHEREAS, for ease of administration, the Commission and Consultants desire to enter into a master contract setting forth the terms and conditions pursuant to which the Commission will obtain from time to time, and Consultants will provide from time to time, professional engineering services for such discrete projects as are delineated and described in Task Orders to be approved by the Commission and Consultants; and

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 Master Agreement between the DuPage Water Commission and Dixon Engineering, Inc. for Professional Engineering Services, in substantially the form attached hereto and by this reference incorporated herein and made a part hereof as Exhibit 1, with such modifications as may be required or approved by the General Manager of the Commission, shall be and it hereby is approved and the General Manager shall be and hereby is authorized and directed to execute the Master Agreement in substantially the form attached hereto as Exhibit 1 with such modifications as may be required or approved by the General Manager; provided, however, that the Master Agreement shall not be so executed on behalf of the Commission unless and until the General Manager shall have been presented with copies of the Master Agreement executed by Dixon Engineering, Inc.

SECTION THREE: The Master Agreement between the DuPage Water Commission and Robinson Engineering, Ltd. for Professional Engineering Services, in substantially the form attached hereto and by this reference incorporated herein and made a part hereof as Exhibit 2, with such modifications as may be required or approved by the General Manager of the Commission, shall be and it hereby is approved and the General Manager shall be and hereby is authorized and directed to execute the Master Agreement in substantially the form attached hereto as Exhibit 1 with such modifications as may be required or approved by the General Manager; provided, however, that the Master Agreement shall not be so executed on behalf of the Commission unless and until

Resolution No. R-8-18

the General Manager shall have been presented with copies of the Master Agreement executed by Robinson Engineering, Ltd.

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

AYES:

NAYS:

ABSENT:

ADOPTED THIS ____ DAY OF _____, 2018.

Chairman

ATTEST:

Clerk

Board/Resolutions/R-8-18.docx

EXHIBIT 1

**CONTRACT BETWEEN
DuPAGE WATER COMMISSION
AND
DIXON ENGINEERING, INC.
FOR
GENERAL ENGINEERING SERVICES
FOR THE DuPAGE WATER COMMISSION**

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CONTRACT BETWEEN
DUPAGE WATER COMMISSION
AND
DIXON ENGINEERING, INC.
FOR
GENERAL ENGINEERING SERVICES
FOR THE DUPAGE WATER COMMISSION

In consideration of the mutual promises set forth below, the DuPage Water Commission, 600 East Butterfield Road, Elmhurst, Illinois 60126-4642, a unit of local government created and existing under the laws of the State of Illinois ("Owner"), and Dixon Engineering, Inc., 1104 3rd Avenue, Lake Odessa Michigan, 48848, a Michigan Corporation ("Consultant"), make this Contract as of the 16th day of March, 2018, and hereby agree as follows:

ARTICLE I
THE SERVICES

1.1 Performance of the Services

Consultant shall, at its sole cost and expense, provide, perform, and complete all of the following, all of which is herein referred to as the "Services":

1. Labor, Equipment, Materials, and Supplies. Provide, perform, and complete, in the manner described and specified in this Contract, all necessary work, labor, services, transportation, equipment, materials, apparatus, information, data, and other items necessary to accomplish the Project, as defined in Attachment A, in accordance with the Scope of Services attached hereto as Attachment B, the Submittal Requirements attached hereto as Attachment C, and the Special Project Requirements attached hereto as Attachment D.
2. Approvals. Procure and furnish all approvals and authorizations specified in Attachment A.
3. Insurance. Procure and furnish all certificates of insurance specified in this Contract.
4. Quality. Provide, perform, and complete all of the foregoing in a proper and workmanlike manner, consistent with the recognized industry standards of professional practice and in full compliance with, and as required by or pursuant to, this Contract.

1.2 Commencement and Completion Dates

Consultant shall commence the Services not later than the "Commencement Date" set forth on Attachment A and shall diligently and continuously prosecute the Services at such a rate as will allow the Services to be fully provided, performed, and completed in full compliance with this Contract not later than the "Completion Date" or, if the Services are to be performed in separate phases with separate completion dates, the "Completion Dates" set forth in Attachment A. The time of commencement, rate of progress, and time of completion are referred to in this Contract as the "Contract Time."

1.3 Required Submittals

A. Submittals Required. Consultant shall submit to Owner all reports, documents, data, and information specifically set forth in Attachment C or otherwise required to be submitted by Consultant under this Contract and shall, in addition, submit to Owner all such reports, documents, data, and information as may be requested by Owner to fully document the Services ("Required Submittals").

B. Time of Submission and Owner's Review. All Required Submittals shall be provided to Owner no later than the time, if any, specified in Attachment C or otherwise in this Contract. If no time for submission is specified for any Required Submittal, such Submittal shall be submitted within a reasonable time in light of its purpose and, in all events, in sufficient time, in Owner's reasonable opinion, to permit Owner to review the same prior to the commencement of any part of the Services to which such Required Submittal may relate. Owner shall have the right to require such corrections as may be necessary to make any Required Submittal conform to this Contract. No Services related to any Required Submittal shall be performed by Consultant until Owner has completed review of such Required Submittal with no exception noted. Owner's review and stamping of any Required Submittal shall not relieve Consultant of the responsibility for the performance of the Services in full compliance with, and as required by or pursuant to this Contract, and shall not be regarded as any assumption of risk or liability by Owner.

C. Responsibility for Delay. Consultant shall be responsible for any delay in the Services due to delay in providing Required Submittals conforming to this Contract.

1.4 Review and Incorporation of Contract Provisions

Consultant represents and warrants that it has carefully reviewed, and fully understood, this Contract, including all of its Attachments, all of which are by this reference incorporated into and made a part of this Contract.

1.5 Financial and Technical Ability to Perform

Consultant represents and warrants that it is financially solvent, and has the financial resources necessary, and that it is sufficiently experienced and competent, and has the necessary capital, facilities, plant, organization, and staff necessary, to provide, perform, and complete the Services in full compliance with, and as required by or pursuant to, this Contract.

1.6 Time

Consultant represents and warrants that it is ready, willing, able, and prepared to begin the Services on the Commencement Date and that the Contract Time is sufficient time to permit completion of the Services in full compliance with, and as required by or pursuant to, this Contract for the Contract Price.

Notwithstanding any other provision of this Contract, Consultant, including the Consultant's subconsultants, if any, shall not be responsible for any delay, default, or nonperformance hereunder, if and to the extent that such delay, default, or nonperformance is caused by an act of God, weather, accident, labor strike, fire, explosion, riot, war, rebellion, terrorist activity, sabotage, flood, epidemic, act of government authority in its sovereign capacity, or any other cause beyond the reasonable control of such party.

1.7 Consultant's Personnel and Subcontractors

A. Consultant's Personnel. Consultant shall provide all personnel necessary to complete the Services, including without limitation the "Key Project Personnel" identified in Attachment D. Consultant shall provide to Owner telephone numbers at which the Key Project Personnel can be reached on a 24 hour basis. Consultant and Owner may by mutual written agreement make changes and additions to the designations of Key Project Personnel. Prior to terminating the employment of any Key Project Personnel, or reassigning any of the Key Project Personnel to other positions, or upon receiving notification of the resignation of any of the Key Project Personnel, Consultant shall notify Owner as soon as practicable in advance of such proposed termination, reassignment, or resignation. Consultant shall submit justification, including a description of proposed substitute personnel, in sufficient detail to permit evaluation by Owner of the impact of the proposed action on the Services. No such termination, except for voluntary terminations by employees, and no such reassignment shall be made by Consultant without prior written approval of Owner. Consultant shall have no claim for damages, for compensation in excess of the Contract Price, or for a delay or extension of the Contract Time as a result of any such termination, reassignment, resignation, or substitution.

B. Approval and Use of Subcontractors. Consultant shall perform the Services with its own personnel and under the management, supervision, and control of its own organization unless otherwise approved by Owner in writing. All subcontractors and subcontracts used by Consultant shall be acceptable to, and approved in advance by, Owner. Owner's approval of any subcontractor or subcontract shall not relieve Consultant of full responsibility and liability for the provision, performance, and completion of the Services in full compliance with, and as required by or pursuant to, this Contract. All Services performed under any subcontract shall be subject to all of the provisions of this Contract in the same manner as if performed by employees of Consultant. Every reference in this Contract to "Consultant" shall be deemed also to refer to all subcontractors of Consultant. Every subcontract shall include a provision binding the subcontractor to all provisions of this Contract.

C. Removal of Personnel and Subcontractors. If any personnel or subcontractor fails to perform the part of the Services undertaken by it in a manner

satisfactory to Owner, Consultant shall immediately upon notice from Owner remove and replace such personnel or subcontractor. Consultant shall have no claim for damages, for compensation in excess of the Contract Price, or for a delay or extension of the Contract Time as a result of any such removal or replacement.

D. Safety. Consultant shall be responsible for providing and maintaining safe conditions for its employees at its workplace on or in the vicinity of Owner's facilities and appurtenances during performance of the Services. To the extent of protecting its employees, Consultant shall take all safety precautions as shall be necessary to comply with all applicable laws and to prevent injury to persons and damage to property. In addition:

1. It is expressly understood by the parties that Consultant's responsibility for safety conditions shall be strictly limited to its employees. It is expressly understood by the parties that Owner's responsibility for safety conditions shall be strictly limited to its employees.
2. Consultant is advised that potentially hazardous conditions described in the Illinois Health and Safety Act, federal OSHA Regulations and Guidelines, ANSI Standard B30.5-1968 as amended, ANSI Standard Z117.1-1995 as amended, and Illinois Department of Labor Rules and Regulations, could be encountered during the performance of the Services, including without limitation energized electrical facilities and overhead wires; cranes, derricks, and other hoisting machinery with operational and use limitations, special hazard warnings and instructions, and revolving superstructures requiring proper barricading; underground utility facilities requiring protection, support, or removal to safeguard employees; excavations requiring, among other things, safe means of egress and protection from cave-ins, fall-ins, hazardous atmospheres, hazardous substances, and other hazardous conditions; and confined or enclosed spaces that are subject to the accumulation of hazardous substances or toxic or flammable contaminants or that have oxygen deficient or other hazardous atmospheres, requiring, among other things, independent fall protection, respiratory equipment, ventilation, two-way communication with the outside, and safe means of egress. Consultant should take special notice of the potentially hazardous conditions identified in this paragraph and take all necessary precautions to guard against such potential hazards, including without limitation conducting employee safety training and education, posting warnings and instructions, testing and inspecting, and utilizing adequate protective and emergency systems, equipment, and devices, in as much safety for its employees remains Consultant's sole responsibility under this Contract. Consultant is directed to the Illinois Health and Safety Act, federal OSHA Regulations and Guidelines, including without limitation Occupational Safety & Health Standards and Construction Industry

Safety & Health Regulations as outlined in Parts 1910 and 1926 of US Dept. of Labor Chapter XVII - Occupational Safety and Health Administration, Title 29, and US Dept. of Labor Document OSHA 2202 "OSHA Safety and Health Standards Digest," ANSI Standard B30.5-1968 as amended, ANSI Standard Z117.1-1995 as amended, and Illinois Department of Labor Rules and Regulations for a further description of these potentially hazardous conditions and the regulations applicable thereto.

3. Owner's notification of these potentially hazardous conditions should not be construed to be, nor interpreted as, an exclusive listing of the potentially hazardous conditions that could be encountered during the performance of the Services but, rather, such notice shall be construed to be, and interpreted as, exemplary only.
4. Consultant shall not have control or charge of and shall not be responsible for construction means, methods, techniques, sequences or procedures, or for safety measures and programs including enforcement of Federal and State safety requirements, in connection with construction work performed by Owner's construction contractors. Nor shall Consultant be responsible for the supervision of Owner's construction contractors, subcontractors or of any of their employees, agents and representatives of such contractors, with respect to their construction means, methods, techniques, sequences or procedures, or for safety measures and programs including enforcement of Federal and State safety requirements, in connection with construction work; or for inspecting machinery, construction equipment and tools used and employed by contractors and subcontractors on Owner's construction projects and shall not have the right to stop or reject work without the thorough evaluation and approval of Owner. In no event shall Consultant be liable for the acts or omissions of Owner's construction contractors, subcontractors or any persons or entities performing any of the construction work, or for the failure of any of them to carry out construction work under contracts with Owner.

1.8 Owner's Responsibilities

Owner shall, at its sole cost and expense and except as otherwise provided in Attachment D: (a) designate in writing a person with authority to act as Owner's representative and on Owner's behalf with respect to the Services except those matters that may require Board approval of Owner; (b) provide to Consultant all criteria and full information as to Owner's requirements for the Project or work to which the Services relate, including Owner's objectives and constraints, schedule, space, capacity and performance requirements, and budgetary limitations relevant to the Project; (c) provide to Consultant all existing studies, reports, and other available data relevant to the Project; (d) arrange for access to and make all provisions for Consultant to enter upon public and private property as reasonably required for Consultant to perform the Services; (e) provide surveys describing physical characteristics, legal limitations, and utility

locations for the Project and the services of geotechnical engineers or other consultants when such services are reasonably requested by Consultant, are necessary for the performance of the Services, and are not already provided for in Attachments B and D; (f) provide structural, mechanical, chemical, air and water pollution tests, test for hazardous materials, and other laboratory and environmental tests, inspections, and reports required by law to be provided by Owner in connection with the Project; (g) review and comment on all Required Submittals and other reports, documents, data, and information presented by Consultant; (h) except as otherwise provided in Attachment A, provide approvals from all governmental authorities having jurisdiction over the Project when such services are reasonably requested by Consultant, are necessary for the performance of the Services, and are not already provided for in Attachments B and D; (i) except as provided in Article IV of this Contract provide, all accounting, insurance, and legal counseling services as may be necessary from time to time in the sole judgment of Owner to protect Owner's interests with respect to the Project; (j) attend Project related meetings; and (k) give prompt written notice to Consultant whenever Owner observes or otherwise becomes aware of any development that affects the scope or timing of the Services, provided, however, that failure to give such notice shall not relieve Consultant of any of its responsibilities under this Contract.

1.9 Owner's Right to Terminate or Suspend Services for Convenience

A. Termination or Suspension for Convenience. Owner shall have the right, for its convenience, to terminate or suspend the Services in whole or in part at any time by written notice to Consultant. Every such notice shall state the extent and effective date of such termination or suspension. On such effective date, Consultant shall, as and to the extent directed, stop Services under this Contract, cease all placement of further orders or subcontracts, terminate or suspend Services under existing orders and subcontracts, and cancel any outstanding orders or subcontracts that may be canceled. Consultant shall be entitled to additional compensation or the right to terminate this Contract in the event of any suspension that exceeds a period of 90 days.

B. Payment for Completed Services. In the event of any termination pursuant to Subsection 1.9A above, Owner shall pay Consultant (1) such direct costs, including overhead, as Consultant shall have paid or incurred for all Services done in compliance with, and as required by or pursuant to, this Contract up to the effective date of termination; and (2) such other costs pertaining to the Services, exclusive of overhead and profit, as Consultant may have reasonably and necessarily incurred as the result of such termination. Any such payment shall be offset by any prior payment or payments and shall be subject to Owner's rights to withhold and deduct as provided in this Contract.

ARTICLE II **CHANGES AND DELAYS**

2.1 Changes

Owner shall have the right, by written order executed by Owner, to make changes in the Contract, the Project, the Services and the Contract Time ("Change Order"). If any Change Order causes an increase or decrease in the amount of the Services, an equitable adjustment in the Contract Price or Contract Time may be made. No decrease

in the amount of the Services caused by any Change Order shall entitle Consultant to make any claim for damages, anticipated profits, or other compensation.

2.2 Delays

For any delay that may result from causes that could not be avoided or controlled by Consultant, Consultant shall, upon timely written application, be entitled to issuance of a Change Order providing for an extension of the Contract Time for a period of time equal to the delay resulting from such unavoidable cause. No extension of the Contract Time shall be allowed for any other delay in completion of the Services.

2.3 No Constructive Change Orders

No claims for equitable adjustments in the Contract Price or Contract Time shall be made or allowed unless embodied in a Change Order. If Owner fails to issue a Change Order including, or fully including, an equitable adjustment in the Contract Price or Contract Time to which Consultant claims it is entitled, or, if Consultant believes that any requirement, direction, instruction, interpretation, determination, or decision of Owner entitles Consultant to an equitable adjustment in the Contract Price or Contract Time that has not been included, or fully included, in a Change Order, then Consultant shall submit to Owner a written request for the issuance of, or revision of, a Change Order, including the equitable adjustment, or the additional equitable adjustment, in the Contract Price or Contract Time that Consultant claims has not been included, or fully included, in a Change Order. Such request shall be submitted before Consultant proceeds with any Services for which Consultant claims an equitable adjustment is due and shall, in all events, be submitted no later than ten business days after receipt of such Change Order or receipt of notice of such requirement, direction, instruction, interpretation, determination, or decision. Unless Consultant submits such a request within ten business days after receipt of such Change Order or receipt of notice of such requirement, direction, instruction, interpretation, determination, or decision, Consultant shall be conclusively deemed (1) to have agreed that such Change Order, requirement, direction, instruction, interpretation, determination, or decision does not entitle Consultant to an equitable adjustment in the Contract Price or Contract Time and (2) to have waived all claims for additional compensation or an extension of time based on such Change Order, requirement, direction, instruction, interpretation, determination, or decision.

ARTICLE III **CONSULTANT'S RESPONSIBILITY FOR DEFECTIVE SERVICES**

3.1 Standard of Care

A. Standard of Care. Consultant represents that the Services and all of its components shall be free from errors and omissions in design; shall conform to the requirements of this Contract; and shall be performed in accordance with recognized industry standards of professional practice, care, and diligence practiced by reputable consulting firms in performing services of a similar nature in existence at the time of performance of the Services for a similar type of owner operating similar facilities. The representation herein expressed shall be in addition to any other representations

expressed in this Contract, or expressed or implied by applicable law, which are hereby reserved unto Owner.

B. Opinions of Cost. It is recognized that neither Consultant nor Owner has control over the costs of labor, material, equipment or services furnished by others or over competitive bidding, market or negotiating conditions, or construction contractors' methods of determining their prices. Accordingly, any opinions of probable Project costs or construction costs provided for herein are estimates only, made on the basis of Consultant's experience and qualifications and represent Consultant's judgment as an experienced and qualified professional, familiar with the industry. Consultant does not guaranty that proposals, bids or actual Project costs or construction costs will not vary from opinions of probable cost prepared by Consultant.

C. Defective Services. Whenever the term "defective" is used in the this Contract, the term shall mean professional services that fail to conform to this Section 3.1 and/or any specific terms and requirements contained in this Contract.

3.2 Corrections

Consultant shall be responsible for the quality, technical accuracy, completeness and coordination of all reports, documents, data, information and other items and services under this Contract. Consultant shall, promptly and without charge, provide, to the reasonable satisfaction of Owner, all corrective Services necessary as a result of Consultant's negligent errors or omissions, negligent acts, or failure to meet the requirements of this Contract.

3.3 Risk of Loss

Consultant shall be responsible for damages to property or persons as a result of Consultant's negligent errors or omissions, negligent acts, or failure to meet the requirements of this Contract and for any losses or costs to repair or remedy any work undertaken by Owner based upon the Services as a direct result of any such negligent errors or omissions, negligent acts, or failure to meet the requirements of this Contract. Notwithstanding any other provision of this Contract, Consultant's obligations under this Section 3.3 shall exist without regard to, and shall not be construed to be waived by, the availability or unavailability of any insurance, either of Owner or Consultant, to indemnify, hold harmless or reimburse Consultant for such damages, losses or costs.

ARTICLE IV FINANCIAL ASSURANCES

4.1 Insurance

Contemporaneous with Consultant's execution of this Contract, Consultant shall provide certificates of insurance evidencing at least the minimum insurance coverages and limits set forth in Attachment A in a form acceptable to Owner and evidencing insurance coverages from companies with a general rating of A minus or better, and a financial size category of Class V or better, in Best's Insurance Guide and otherwise acceptable to Owner. Such insurance shall provide that no cancellation of any insurance shall become effective until the expiration of 30 days after written notice thereof shall have

been given by the insurance company to Consultant. Consultant shall notify Owner of any substantial changes or modification in such coverage within 30 days after Consultant becomes aware of same. Consultant shall immediately pass any such notice to Owner. Consultant shall, at all times while providing, performing, or completing the Services, including, without limitation, at all times while correcting any failure to meet the requirements of this Contract, maintain and keep in force, at Consultant's expense, at least the minimum insurance coverages and limits set forth in Attachment A.

4.2 Indemnification

Consultant shall, without regard to the availability or unavailability of any insurance, either of Owner or Consultant, indemnify, save harmless, and defend Owner against any and all lawsuits, claims, demands, damages, liabilities, losses, and expenses, including reasonable attorneys' fees and administrative expenses, to the extent caused by any negligent act, error, or omission in Consultant's performance of, or failure to perform, the Services or any part thereof, except to the extent caused by the negligence of Owner.

ARTICLE V **PAYMENT**

5.1 Contract Price

Owner shall pay to Consultant, in accordance with and subject to the terms and conditions set forth in this Article V and Attachment A, and Consultant shall accept in full satisfaction for providing, performing, and completing the Services, the amount or amounts set forth in Attachment A ("Contract Price"), subject to any additions, deductions, or withholdings provided for in this Contract.

5.2 Taxes, Benefits and Royalties

The Contract Price includes all applicable federal, state, and local taxes of every kind and nature applicable to the Services as well as all taxes, contributions, and premiums for unemployment insurance, old age or retirement benefits, pensions, annuities, or other similar benefits and all costs, royalties, and fees arising from the use on, or the incorporation into, the Services, of patented equipment, materials, supplies, tools, appliances, devices, processes, or inventions. All claim or right to claim additional compensation by reason of the payment of any such tax, contribution, premium, costs, royalties, or fees is hereby waived and released by Consultant.

5.3 Progress Payments

A. Payment in Installments. The Contract Price shall be paid in monthly installments in the manner set forth in Attachment A ("Progress Payments").

B. Pay Requests. Consultant shall, as a condition precedent to its right to receive each Progress Payment, submit to Owner an invoice accompanied by such receipts, vouchers, and other documents as may be necessary to establish Consultant's prior payment for all labor, material, and other things covered by the invoice and the absence of any interest, whether in the nature of a lien or otherwise, of any party in any property, work, or fund with respect to the Services performed under this Contract. In

addition to the foregoing, such invoice shall include (a) employee classifications, rates per hour, and hours worked by each classification, and, if the Services are to be performed in separate phases, for each phase; (b) total amount billed in the current period and total amount billed to date, and, if the Services are to be performed in separate phases, for each phase; (c) the estimated percent completion, and, if the Services are to be performed in separate phases, for each phase; and (d) Consultant's certification that all prior Progress Payments have been properly applied to the Services with respect to which they were paid. Owner may, by written notice to Consultant, designate a specific day of each month on or before which pay requests must be submitted.

5.4 Final Acceptance and Final Payment

The Services, or, if the Services are to be performed in separate phases, each phase of the Services, shall be considered complete on the date of final written acceptance by Owner of the Services or each phase of the Services, as the case may be, which acceptance shall not be unreasonably withheld or delayed. The Services or each phase of the Services, as the case may be, shall be deemed accepted by Owner if not objected to in writing within 30 days after submission by Consultant of the Services or such phase of Services for final acceptance and payment plus, if applicable, such additional time as may be considered reasonable for obtaining approval of governmental authorities having jurisdiction to approve the Services, or phase of Services, as the case may be. As soon as practicable after final acceptance, Owner shall pay to Consultant the balance of the Contract Price or, if the Services are to be performed in separate phases, the balance of that portion of the Contract Price with respect to such phase of the Services, after deducting therefrom all charges against Consultant as provided for in this Contract ("Final Payment"). The acceptance by Consultant of Final Payment with respect to the Services or a particular phase of Services, as the case may be, shall operate as a full and complete release of Owner of and from any and all lawsuits, claims, demands, damages, liabilities, losses, and expenses of, by, or to Consultant for anything done, furnished for, arising out of, relating to, or in connection with the payment for Services or a particular phase of Services, as the case may be, or for or on account of any act or neglect of Owner arising out of, relating to, or in connection with the Services or a particular phase of Services, as the case may be.

5.5 Deductions

A. Owner's Right to Withhold. Notwithstanding any other provision of this Contract and without prejudice to any of Owner's other rights or remedies, Owner shall have the right at any time or times, whether before or after approval of any pay request, to deduct and withhold from any Progress or Final Payment that may be or become due under this Contract such amount as may reasonably appear necessary to compensate Owner for any actual or prospective loss due to: (1) Services that are defective, nonconforming or incomplete, or contain errors; (2) damage for which Consultant is liable under this Contract; (3) liens or claims of lien regardless of merit unless bonded over by Consultant or unless such liens were a result of Owner's failure to comply with its payment obligations in this Contract; (4) delay in the progress or completion of the Services unless due to causes that could not be avoided or controlled by Consultant; (5) inability of

Consultant to complete the Services; (6) failure of Consultant to properly complete or document any pay request; (7) any other failure of Consultant to perform any of its obligations under this Contract; or (8) the cost to Owner, including reasonable attorneys' fees and administrative costs, of correcting any of the aforesaid matters or exercising any one or more of Owner's remedies set forth in Section 6.1 of this Contract; provided, however, that Owner has provided Consultant with advance written notice of any such event, and Consultant has failed to cure or start to cure with due diligence such matter within ten business days after receipt of such written notice.

B. Use of Withheld Funds. Owner shall be entitled to retain any and all amounts withheld pursuant to Subsection 5.5A above until Consultant shall have either performed the obligations in question or furnished security for such performance satisfactory to Owner. If such matter is not cured or if efforts to cure with due diligence are not started by Consultant within ten business days after receipt of written notice from Owner as provided herein, Owner shall be entitled to apply any money withheld or any other money due Consultant under this Contract to reimburse itself for any and all costs, expenses, losses, damages, liabilities, suits, judgments, awards, reasonable attorneys' fees, and reasonable administrative expenses incurred, suffered, or sustained by Owner and chargeable to Consultant under this Contract.

5.6 Accounting

Consultant shall keep accounts, books, and other records of all its billable charges and costs incurred in performing the Services in accordance with generally accepted accounting practices, consistently applied, and in such manner as to permit verification of all entries. Consultant shall make all such material available for inspection by Owner, at all reasonable times during this Contract and for a period of three years following termination of this Contract. Copies of such material shall be furnished, at Owner's expense, upon request.

ARTICLE VI **REMEDIES**

6.1 Owner's Remedies

If it should appear at any time prior to Final Payment for all work that Consultant has failed or refused to prosecute, or has delayed in the prosecution of, the Services with diligence at a rate that assures completion of the Services in full compliance with the requirements of this Contract, or has attempted to assign this Contract or Consultant's rights under this Contract, either in whole or in part, or has falsely made any representation or warranty in this Contract, or has otherwise failed, refused, or delayed to perform or satisfy any other requirement of this Contract or has failed to pay its debts as they come due ("Event of Default"), and has failed to cure or begin to cure with due diligence any such Event of Default within ten business days after Consultant's receipt of written notice of such Event of Default, then Owner shall have the right, at its election and without prejudice to any other remedies provided by law or equity, to pursue any one or more of the following remedies:

1. Owner may require Consultant, within such reasonable time as may

be fixed by Owner, to complete or correct all or any part of the Services that are defective, nonconforming or incomplete, or contain errors; to accelerate all or any part of the Services; and to take any or all other action necessary to bring Consultant and the Services into compliance with this Contract.

2. Owner may accept the Services that are defective, nonconforming, incomplete, or dilatory, or contain errors, or part thereof, and make an equitable reduction in the Contract Price.
3. Owner may terminate this Contract without liability for further payment of amounts due or to become due under this Contract.
4. Owner may withhold from any Progress Payment or Final Payment, whether or not previously approved, or may recover from Consultant, any and all costs, including reasonable attorneys' fees and administrative expenses, incurred by Owner as the result of any Event of Default or as a result of actions taken by Owner in response to any Event of Default.
5. Owner may recover direct damages suffered by Owner.

6.2 Terminations and Suspensions Deemed for Convenience

Any termination or suspension of Consultant's rights under this Contract for an alleged default that is ultimately held unjustified shall automatically be deemed to be a termination or suspension for the convenience of Owner under Section 1.9 of this Contract.

ARTICLE VII LEGAL RELATIONSHIPS AND REQUIREMENTS

7.1 Binding Effect

This Contract shall be binding upon Owner and Consultant and upon their respective heirs, executors, administrators, personal representatives, and permitted successors and assigns. Every reference in this Contract to a party shall also be deemed to be a reference to the authorized officers, employees, agents, and representatives of such party.

7.2 Relationship of the Parties

Consultant shall act as an independent contractor in providing and performing the Services. Nothing in, nor done pursuant to, this Contract shall be construed (1) to create the relationship of principal and agent, partners, or joint venturers between Owner and Consultant or (2) to create any relationship between Owner and any subcontractor of Consultant.

7.3 No Collusion/Prohibited Interests

Consultant hereby represents and certifies that Consultant is not barred from contracting with a unit of state or local government as a result of (i) a violation of either Section 33E-3 or Section 33E-4 of Article 33E of the Criminal Code of 1961, 720 ILCS 5/33E-1 et seq.; or (ii) a violation of the USA Patriot Act of 2001, 107 Public Law 56 (October 26, 2001) (the "Patriot Act") or other statutes, orders, rules, and regulations of the United States government and its various executive departments, agencies and offices related to the subject matter of the Patriot Act, including, but not limited to, Executive Order 13224 effective September 24, 2001.

Consultant hereby represents that the only persons, firms, or corporations interested in this Contract as principals are those disclosed to Owner prior to the execution of this Contract, and that this Contract is made without collusion with any other person, firm, or corporation. If at any time it shall be found that Consultant has, in procuring this Contract, colluded with any other person, firm, or corporation, then Consultant shall be liable to Owner for all loss or damage that Owner may suffer thereby, and this Contract shall, at Owner's option, be null and void.

Consultant hereby represents and warrants that neither Consultant nor any person affiliated with Consultant or that has an economic interest in Consultant or that has or will have an interest in the Services or will participate, in any manner whatsoever, in the Services is acting, directly or indirectly, for or on behalf of any person, group, entity or nation named by the United States Treasury Department as a Specially Designated National and Blocked Person, or for or on behalf of any person, group, entity or nation designated in Presidential Executive Order 13224 as a person who commits, threatens to commit, or supports terrorism, and neither Consultant nor any person affiliated with Consultant or that has an economic interest in Consultant or that has or will have an interest in the Services or will participate, in any manner whatsoever, in the Services is, directly or indirectly, engaged in, or facilitating, the Services on behalf of any such person, group, entity or nation.

7.4 Assignment

Consultant shall not (1) assign this Contract in whole or in part, (2) assign any of Consultant's rights or obligations under this Contract, or (3) assign any payment due or to become due under this Contract without the prior express written approval of Owner, which approval shall not be unreasonably withheld; provided, however, that Owner's prior written approval shall not be required for assignments of accounts, as defined in the Illinois Commercial Code, if to do so would violate Section 9-318 of the Illinois Commercial Code, 810 ILCS 5/9-318. Owner may assign this Contract, in whole or in part, or any or all of its rights or obligations under this Contract, without the consent of Consultant.

7.5 Confidential Information

All information supplied by Owner to Consultant for or in connection with this Contract or the Services shall be held confidential by Consultant and shall not, without the prior express written consent of Owner, be used for any purpose other than performance of the Services. Confidential information shall not include any information

of Owner that is required by law to be disclosed to any governmental agency, provided that before making such disclosure, Consultant shall give Owner a written notice and an opportunity to object to the disclosure or take action to assure confidential handling of the information.

7.6 No Waiver

No examination, inspection, investigation, test, measurement, review, determination, decision, certificate, or approval by Owner, nor any order by Owner for the payment of money, nor any payment for, or use, occupancy, possession, or acceptance of, the whole or any part of the Services by Owner, nor any extension of time granted by Owner, nor any delay by Owner in exercising any right under this Contract, nor any other act or omission of Owner shall constitute or be deemed to be an acceptance of any Services which are defective, nonconforming or incomplete, or contain errors, nor operate to waive or otherwise diminish the effect of any warranty or representation made by Consultant; or of any requirement or provision of this Contract; or of any remedy, power, or right of Owner.

7.7 No Third Party Beneficiaries

No claim as a third party beneficiary under this Contract by any person, firm, or corporation other than Consultant shall be made or be valid against Owner.

7.8 Notices

All notices required or permitted to be given under this Contract shall be in writing and shall be deemed received by the addressee thereof when delivered in person on a business day at the address set forth below or on the third business day after being deposited in any main or branch United States post office, for delivery at the address set forth below by properly addressed, postage prepaid, certified or registered mail, return receipt requested.

Notices and communications to Owner shall be addressed to, and delivered at, the following address:

DuPage Water Commission
600 East Butterfield Road
Elmhurst, Illinois 60126-4642
Attention: John F. Spatz, General Manager

Notices and communications to Consultant shall be addressed to, and delivered at, the following address:

Dixon Engineering, Inc.
1104 3rd Avenue
Lake Odessa, MI 48849
Attention: Ira M. Gabin, Vice President

The foregoing shall not be deemed to preclude the use of other non-oral means of notification or to invalidate any notice properly given by any such other non-oral means.

By notice complying with the requirements of this Section 7.8, Owner and Consultant each shall have the right to change the address or addressee or both for all future notices to it, but no notice of a change of address or addressee shall be effective until actually received.

7.9 Governing Laws

This Contract and the rights of Owner and Consultant under this Contract shall be interpreted according to the internal laws, but not the conflict of laws rules, of the State of Illinois.

7.10 Changes in Laws

Unless otherwise explicitly provided in this Contract, any reference to laws shall include such laws as they may be amended or modified from time to time.

7.11 Compliance with Laws and Grants

Consultant shall give all notices, pay all fees, and take all other action that may be necessary to ensure that the Services are provided, performed, and completed in accordance with all required governmental permits, licenses, or other approvals and authorizations that may be required in connection with providing, performing, and completing the Services, and with all applicable statutes, ordinances, rules, and regulations, including without limitation the Fair Labor Standards Act; any statutes regarding qualification to do business; any statutes prohibiting discrimination because of, or requiring affirmative action based on, race, creed, color, national origin, age, sex, or other prohibited classification, including, without limitation, the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101 et seq., and the Illinois Human Rights Act, 775 ILCS 5/1-101 et seq. Consultant shall also comply with all conditions of any federal, state, or local grant received by Owner or Consultant with respect to this Contract or the Services.

Consultant shall be solely liable for any fines or civil penalties that are imposed by any governmental or quasi-governmental agency or body that may arise, or be alleged to have arisen, out of or in connection with Consultant's, or its subcontractors', performance of, or failure to perform, the Services or any part thereof.

Every provision of law required by law to be inserted into this Contract shall be deemed to be inserted herein.

7.12 Documents

Drawings, plans, specifications, photos, reports, information, observations, calculations, notes and any other reports, documents, data or information, in any form, prepared, collected, or received by Consultant in connection with any or all of the Services (the "Documents") shall, upon payment to Consultant of all amounts due under this Contract, be and remain the property of Owner and shall not, without the prior express written consent of Owner, be used for any purpose other than performance of the Services; provided, however, that any use thereof by Owner for purposes other than specifically anticipated in Consultant's scope of Services shall be at Owner's sole risk and cost. At Owner's request, or upon termination of this Contract, the Documents shall be

delivered promptly to Owner. Consultant shall have the right to retain copies of the Documents for its files. Unless Owner shall consent in writing to the earlier destruction of the Documents, Consultant shall maintain files of all Documents for a period of five years after termination of this Contract. Consultant shall make, and shall cause all of its subcontractors to make, the Documents available for Owner's review, inspection and audit during the entire term of this Contract and for five years after termination of this Contract.

Nothing in this paragraph shall constitute or be constructed to be any representation by the Consultant that the work product is suitable in any way for any other project except the one detailed in this agreement. Any reuse by the Owner shall be at the Owners sole risk and without liability or legal exposure to Consultant.

7.13 Time

The Contract Time is of the essence of this Contract. Except where otherwise stated, references in this Contract to days shall be construed to refer to calendar days.

7.14 Severability

The provisions of this Contract shall be interpreted when possible to sustain their legality and enforceability as a whole. In the event any provision of this Contract shall be held invalid, illegal, or unenforceable by a court of competent jurisdiction, in whole or in part, neither the validity of the remaining part of such provision, nor the validity of any other provisions of this Contract shall be in any way affected thereby.

7.15 Entire Agreement

This Contract sets forth the entire agreement of Owner and Consultant with respect to the accomplishment of the Services and the payment of the Contract Price therefor, and there are no other understandings or agreements, oral or written, between Owner and Consultant with respect to the Services and the compensation therefor.

7.16 Amendments

No modification, addition, deletion, revision, alteration, or other change to this Contract shall be effective unless and until such change is reduced to writing and executed and delivered by Owner and Consultant.

IN WITNESS WHEREOF, Owner and Consultant have caused this Contract to be executed in two original counterparts as of the day and year first written above.

Attest/Witness:

DuPAGE WATER COMMISSION

By: _____

By: _____

Name: Carolyn Johnson
Clerk

Name: John F. Spatz
General Manager

Attest/Witness:

DIXON ENGINEERING, INC.

By: Brad Schotanus

By: Ira M. Gabin

Name: Brad Schotanus

Name: Ira M. Gabin

Title: Project Manager

Title: Vice President

ATTACHMENT A

SUPPLEMENTAL SCHEDULE OF CONTRACT TERMS

1. **Project:**

[INSERT NAME OF PROJECT]

2. **Approvals and Authorizations:**

[INSERT ANY REQUIRED BY THE PROJECT]

3. **Commencement Date:**

[INSERT THE DATE OF EXECUTION OF THE CONTRACT BY OWNER]

4. **Completion Date:**

To be agreed upon before contract execution:

- A. **Task 1:** ____ days following the Commencement Date plus extensions, if any, authorized by a Change Order issued pursuant to Section 2.1 of the Contract.
- B. **Task 2:** ____ days following issuance of Notice to Proceed by Owner plus extensions, if any, authorized by a Change Order issued pursuant to Section 2.1 of the Contract.
- C. **Task 3:** ____ days following issuance of Notice to Proceed by Owner plus extensions, if any, authorized by a Change Order issued pursuant to Section 2.1 of the Contract.

5. **Insurance Coverages:**

A. **Worker's Compensation and Employer's Liability** with limits not less than:

(1) **Worker's Compensation:** Statutory;

(2) **Employer's Liability:**

\$500,000 injury-per occurrence

\$500,000 disease-per employee

\$500,000 disease-policy limit

Such insurance shall evidence that coverage applies in the State of Illinois and provide a waiver of subrogation in favor of Owner. By entering into this agreement, the parties acknowledge that this limitation of liability clause has been reviewed, understood, is a material part of this agreement, and each

party has had the opportunity to seek legal advice regarding this provision.

- B. Commercial Motor Vehicle Liability with a combined single limit of liability for bodily injury and property damage of not less than \$1,000,000 for vehicles owned, non-owned, or rented.

All employees shall be included as insureds.

- C. Commercial General Liability with coverage written on an "occurrence" basis and with limits no less than:

- (1) Each Occurrence: \$1,000,000
- (2) General Aggregate: \$2,000,000
- (3) Completed Operations Aggregate: \$2,000,000
- (4) Personal Injury: \$1,000,000

Coverages shall include:

- Broad Form Property Damage Endorsement
- Blanket Contractual Liability

- D. Professional Liability Insurance. With a limit of liability of not less than \$2,000,000 per claim and covering Consultant against all sums that Consultant may be obligated to pay on account of any liability arising out of Consultant's negligent acts, errors, and omissions under the Contract. Such insurance, or such insurance as may then be commercially available in the marketplace, shall be maintained for a three year period from and after Final Payment.

- E. Umbrella Policy. The required coverages may be in any combination of primary, excess, and umbrella policies. Any excess or umbrella policy must provide excess coverage over underlying insurance on a following-form basis such that when any loss covered by the primary policy exceeds the limits under the primary policy, the excess or umbrella policy becomes effective to cover such loss.

- F. Owner as Additional Insured. Owner shall be named as an Additional Insured on the following policies:

Commercial Motor Vehicle Liability

Commercial General Liability

Each such additional Insured endorsement shall identify Owner as follows: The DuPage Water Commission, including its Board members and elected and appointed officials, its officers, employees, named agents, including

Owner's attorneys and representatives, as related to Consultant's Services under the Contract.

6. **Contract Price:**

SCHEDULE OF PRICES

For providing, performing, and completing each phase of Services, an amount equal to Consultant's Direct Labor Costs times a factor of ~~[X.XX]~~ for all Services for all Services rendered by principals and employees engaged directly on the Project, plus an amount equal to the actual costs of all Reimbursable Expenses, but not to exceed, in each phase of Services, the following not to exceed amount set forth opposite each such phase except as adjusted by a Change Order issued pursuant to Section 2.1 of the Contract:

<u>Phase</u>	<u>Not to Exceed</u>
Task 1	\$ TBD
Task 2	\$ TBD
Task 3	\$ TBD

7. **Payments:**

For purposes of payments to Consultant, the value of the Services shall be determined as follows:

Direct Labor Costs shall mean actual wages paid to those members of staff who are classified as officers, engineers, technicians, draftsmen, and field party personnel engaged directly on the Project plus state and federal taxes, social security, employment and retirement benefits as defined in the American Society of Civil Engineers (ASCE) Manual No. 45.

Reimbursable Expenses shall mean the actual expenses incurred by Consultant directly or indirectly in connection with the Project, including expenses for transportation, telephone, postage, computer time and other highly specialized equipment, reproduction and similar Project related items.

ATTACHMENT B

SCOPE OF SERVICES

[INSERT DESCRIPTION OF SERVICES]

Consultant shall cooperate and work closely with representatives of Owner and other parties involved in the Project. Consultant shall meet with Owner and such other parties, and shall provide such consultation, advice, and reports, as required to adequately perform its responsibilities under the Contract. Consultant shall produce and deliver to Owner the results of its Services, plus any reports, documents, data, information, observations, or opinions set forth below or requested by Owner, in form or format as set forth below or, if none, in form or format of Owner's choosing.

1. Basic Services.

[INSERT LIST OF TASKS ASSOCIATED WITH PROJECT]

- a. Task 1
- b. Task 2
- c. Task 3

ATTACHMENT C

SUBMITTAL SCHEDULE

Submittal:

Due Date:

ATTACHMENT D

SPECIAL PROJECT REQUIREMENTS

1. Key Project Personnel:

Name:	Telephone:
_____	_____
_____	_____
_____	_____

2. Security:

- A. Description. For security purposes, Owner investigates the background of personnel at its facilities and personnel engaged to perform services of a similar nature to the Services to be provided under the Contract and implements other security measures as it determines are necessary from time to time ("Security Program"). To obtain authorization to work at Owner's facilities or to be engaged to perform the Services, Consultant and its subcontractors must comply with the requirements of Owner's Security Program. Consultant shall remain as fully responsible and liable for the acts and omissions of all subcontractors and their respective agents and employees in connection with Owner's Security Program as it is for its own acts and those of its agents and employees, as set forth in the Contract.
- B. Background Investigations. Consultant personnel, including subcontractor personnel that will require access to Owner's facilities or that will be engaged to perform the Services shall submit all information requested by Owner in order to perform the necessary background investigations. Background information required by Owner may include:
- a. Information needed to complete a Conviction Information Request Non-Fingerprint Form (for background checks, including conviction information, conducted by the Illinois State Police Bureau of Identification)
 - b. Education History
 - c. Military Service
 - d. Character and Reputation References
 - e. Verification of Identity
 - f. Fingerprints

No Consultant personnel, including subcontractor personnel, will be granted unescorted access to Owner's facilities, nor shall any Consultant personnel, including subcontractor personnel, be engaged to perform the Services, until any background investigation required by Owner has been successfully completed. Owner reserves the right to order Consultant to remove from Owner's facilities any personnel, including subcontractor personnel, who Owner determines pose a threat to the security of Owner or its facilities. Any such person so removed shall not be engaged again on the Services.

- C. Search. Consultant personnel and vehicles, including subcontractor personnel and vehicles, allowed on Owner's property shall be subject to search when entering and leaving the property. By entering the property, Consultant personnel, including subcontractor personnel, authorize Owner to perform or have performed such searches of their persons or vehicles.
- D. Identification Badges. Owner shall issue identification badges to all Consultant personnel, including subcontractor personnel. All such personnel shall pick up their identification badges prior to entry onto Owner's property and shall return the badges at the end of each work day. All such personnel shall wear the identification badges in a prominent manner at all times when working on Owner property.
- E. No Liability. Neither Owner, nor any official or employee of Owner, nor any authorized assistant or agent of any of them, shall be responsible for the adequacy of Owner's security precautions and programs or any liability arising there from.

3. Facility Locations and Testing Results and Analysis:

Information as to the location of Owner's existing facilities and test results and recommendations received from other consultants have been indicated or provided solely for the convenience of Consultant. Owner assumes no responsibility whatever in respect to the sufficiency or accuracy of such information and such information is not guaranteed.

ATTACHMENT E

TYPICAL PLANS, SECTIONS, SCHEDULES, NOTES AND DETAILS

EXHIBIT 2

**CONTRACT BETWEEN
DuPAGE WATER COMMISSION
AND
ROBINSON ENGINEERING, LTD.
FOR
GENERAL ENGINEERING SERVICES
FOR THE DuPAGE WATER COMMISSION**

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ATTACHMENT E – Typical Plans, Sections, Schedules, Notes and Details

CONTRACT BETWEEN
DUPAGE WATER COMMISSION
AND
ROBINSON ENGINEERING, LTD.
FOR
GENERAL ENGINEERING SERVICES
FOR THE DUPAGE WATER COMMISSION

In consideration of the mutual promises set forth below, the DuPage Water Commission, 600 East Butterfield Road, Elmhurst, Illinois 60126-4642, a unit of local government created and existing under the laws of the State of Illinois ("Owner"), and Robinson Engineering, Ltd., 127 N. Walnut Street, Suite 200, Itasca IL 60123, a Corporation ("Consultant"), make this Contract as of the _____ day of April, 2018, and hereby agree as follows:

ARTICLE I
THE SERVICES

1.1 Performance of the Services

Consultant shall, at its sole cost and expense, provide, perform, and complete all of the following, all of which is herein referred to as the "Services":

1. **Labor, Equipment, Materials, and Supplies.** Provide, perform, and complete, in the manner described and specified in this Contract, all necessary work, labor, services, transportation, equipment, materials, apparatus, information, data, and other items necessary to accomplish the Project, as defined in Attachment A, in accordance with the Scope of Services attached hereto as Attachment B, the Submittal Requirements attached hereto as Attachment C, and the Special Project Requirements attached hereto as Attachment D.
2. **Approvals.** Procure and furnish all approvals and authorizations specified in Attachment A.
3. **Insurance.** Procure and furnish all certificates of insurance specified in this Contract.
4. **Quality.** Provide, perform, and complete all of the foregoing in a proper and workmanlike manner, consistent with the recognized industry standards of professional practice and in full compliance with, and as required by or pursuant to, this Contract.

1.2 Commencement and Completion Dates

Consultant shall commence the Services not later than the "Commencement Date" set forth on Attachment A and shall diligently and continuously prosecute the Services at such a rate as will allow the Services to be fully provided, performed, and completed in full compliance with this Contract not later than the "Completion Date" or, if the Services are to be performed in separate phases with separate completion dates, the "Completion Dates" set forth in Attachment A. The time of commencement, rate of progress, and time of completion are referred to in this Contract as the "Contract Time."

1.3 Required Submittals

A. **Submittals Required.** Consultant shall submit to Owner all reports, documents, data, and information specifically set forth in Attachment C or otherwise required to be submitted by Consultant under this Contract and shall, in addition, submit to Owner all such reports, documents, data, and information as may be requested by Owner to fully document the Services ("Required Submittals").

B. **Time of Submission and Owner's Review.** All Required Submittals shall be provided to Owner no later than the time, if any, specified in Attachment C or otherwise in this Contract. If no time for submission is specified for any Required Submittal, such Submittal shall be submitted within a reasonable time in light of its purpose and, in all events, in sufficient time, in Owner's reasonable opinion, to permit Owner to review the same prior to the commencement of any part of the Services to which such Required Submittal may relate. Owner shall have the right to require such corrections as may be necessary to make any Required Submittal conform to this Contract. No Services related to any Required Submittal shall be performed by Consultant until Owner has completed review of such Required Submittal with no exception noted. Owner's review and stamping of any Required Submittal shall not relieve Consultant of the responsibility for the performance of the Services in full compliance with, and as required by or pursuant to this Contract, and shall not be regarded as any assumption of risk or liability by Owner.

C. **Responsibility for Delay.** Consultant shall be responsible for any delay in the Services due to delay in providing Required Submittals conforming to this Contract.

1.4 Review and Incorporation of Contract Provisions

Consultant represents and warrants that it has carefully reviewed, and fully understood, this Contract, including all of its Attachments, all of which are by this reference incorporated into and made a part of this Contract.

1.5 Financial and Technical Ability to Perform

Consultant represents and warrants that it is financially solvent, and has the financial resources necessary, and that it is sufficiently experienced and competent, and has the necessary capital, facilities, plant, organization, and staff necessary, to provide, perform, and complete the Services in full compliance with, and as required by or pursuant to, this Contract.

1.6 Time

Consultant represents and warrants that it is ready, willing, able, and prepared to begin the Services on the Commencement Date and that the Contract Time is sufficient time to permit completion of the Services in full compliance with, and as required by or pursuant to, this Contract for the Contract Price.

Notwithstanding any other provision of this Contract, Consultant, including the Consultant's subconsultants, if any, shall not be responsible for any delay, default, or nonperformance hereunder, if and to the extent that such delay, default, or nonperformance is caused by an act of God, weather, accident, labor strike, fire, explosion, riot, war, rebellion, terrorist activity, sabotage, flood, epidemic, act of government authority in its sovereign capacity, or any other cause beyond the reasonable control of such party.

1.7 Consultant's Personnel and Subcontractors

A. Consultant's Personnel. Consultant shall provide all personnel necessary to complete the Services, including without limitation the "Key Project Personnel" identified in Attachment D. Consultant shall provide to Owner telephone numbers at which the Key Project Personnel can be reached on a 24 hour basis. Consultant and Owner may by mutual written agreement make changes and additions to the designations of Key Project Personnel. Prior to terminating the employment of any Key Project Personnel, or reassigning any of the Key Project Personnel to other positions, or upon receiving notification of the resignation of any of the Key Project Personnel, Consultant shall notify Owner as soon as practicable in advance of such proposed termination, reassignment, or resignation. Consultant shall submit justification, including a description of proposed substitute personnel, in sufficient detail to permit evaluation by Owner of the impact of the proposed action on the Services. No such termination, except for voluntary terminations by employees, and no such reassignment shall be made by Consultant without prior written approval of Owner. Consultant shall have no claim for damages, for compensation in excess of the Contract Price, or for a delay or extension of the Contract Time as a result of any such termination, reassignment, resignation, or substitution.

B. Approval and Use of Subcontractors. Consultant shall perform the Services with its own personnel and under the management, supervision, and control of its own organization unless otherwise approved by Owner in writing. All subcontractors and subcontracts used by Consultant shall be acceptable to, and approved in advance by, Owner. Owner's approval of any subcontractor or subcontract shall not relieve Consultant of full responsibility and liability for the provision, performance, and completion of the Services in full compliance with, and as required by or pursuant to, this Contract. All Services performed under any subcontract shall be subject to all of the provisions of this Contract in the same manner as if performed by employees of Consultant. Every reference in this Contract to "Consultant" shall be deemed also to refer to all subcontractors of Consultant. Every subcontract shall include a provision binding the subcontractor to all provisions of this Contract.

C. Removal of Personnel and Subcontractors. If any personnel or subcontractor fails to perform the part of the Services undertaken by it in a manner satisfactory to Owner, Consultant shall immediately upon notice from Owner remove and replace such personnel or subcontractor. Consultant shall have no claim for damages, for compensation in excess of the Contract Price, or for a delay or extension of the Contract Time as a result of any such removal or replacement.

D. Safety. Consultant shall be responsible for providing and maintaining safe conditions for its employees at its workplace on or in the vicinity of Owner's facilities and appurtenances during performance of the Services. To the extent of protecting its employees, Consultant shall take all safety precautions as shall be necessary to comply with all applicable laws and to prevent injury to persons and damage to property. In addition:

1. It is expressly understood by the parties that Consultant's responsibility for safety conditions shall be strictly limited to its employees. It is expressly understood by the parties that Owner's responsibility for safety conditions shall be strictly limited to its employees.
2. Consultant is advised that potentially hazardous conditions described in the Illinois Health and Safety Act, federal OSHA Regulations and Guidelines, ANSI Standard B30.5-1968 as amended, ANSI Standard Z117.1-1995 as amended, and Illinois Department of Labor Rules and Regulations, could be encountered during the performance of the Services, including without limitation energized electrical facilities and overhead wires; cranes, derricks, and other hoisting machinery with operational and use limitations, special hazard warnings and instructions, and revolving superstructures requiring proper barricading; underground utility facilities requiring protection, support, or removal to safeguard employees; excavations requiring, among other things, safe means of egress and protection from cave-ins, fall-ins, hazardous atmospheres, hazardous substances, and other hazardous conditions; and confined or enclosed spaces that are subject to the accumulation of hazardous substances or toxic or flammable contaminants or that have oxygen deficient or other hazardous atmospheres, requiring, among other things, independent fall protection, respiratory equipment, ventilation, two-way communication with the outside, and safe means of egress. Consultant should take special notice of the potentially hazardous conditions identified in this paragraph and take all necessary precautions to guard against such potential hazards, including without limitation conducting employee safety training and education, posting warnings and instructions, testing and inspecting, and utilizing adequate protective and emergency systems, equipment, and devices, in as much safety for its employees remains Consultant's sole responsibility under this

Contract. Consultant is directed to the Illinois Health and Safety Act, federal OSHA Regulations and Guidelines, including without limitation Occupational Safety & Health Standards and Construction Industry Safety & Health Regulations as outlined in Parts 1910 and 1926 of US Dept. of Labor Chapter XVII - Occupational Safety and Health Administration, Title 29, and US Dept. of Labor Document OSHA 2202 "OSHA Safety and Health Standards Digest," ANSI Standard B30.5-1968 as amended, ANSI Standard Z117.1-1995 as amended, and Illinois Department of Labor Rules and Regulations for a further description of these potentially hazardous conditions and the regulations applicable thereto.

3. Owner's notification of these potentially hazardous conditions should not be construed to be, nor interpreted as, an exclusive listing of the potentially hazardous conditions that could be encountered during the performance of the Services but, rather, such notice shall be construed to be, and interpreted as, exemplary only.
4. Consultant shall not have control or charge of and shall not be responsible for construction means, methods, techniques, sequences or procedures, or for safety measures and programs including enforcement of Federal and State safety requirements, in connection with construction work performed by Owner's construction contractors. Nor shall Consultant be responsible for the supervision of Owner's construction contractors, subcontractors or of any of their employees, agents and representatives of such contractors, with respect to their construction means, methods, techniques, sequences or procedures, or for safety measures and programs including enforcement of Federal and State safety requirements, in connection with construction work; or for inspecting machinery, construction equipment and tools used and employed by contractors and subcontractors on Owner's construction projects and shall not have the right to stop or reject work without the thorough evaluation and approval of Owner. In no event shall Consultant be liable for the acts or omissions of Owner's construction contractors, subcontractors or any persons or entities performing any of the construction work, or for the failure of any of them to carry out construction work under contracts with Owner.

1.8 Owner's Responsibilities

Owner shall, at its sole cost and expense and except as otherwise provided in Attachment D: (a) designate in writing a person with authority to act as Owner's representative and on Owner's behalf with respect to the Services except those matters that may require Board approval of Owner; (b) provide to Consultant all criteria and full

information as to Owner's requirements for the Project or work to which the Services relate, including Owner's objectives and constraints, schedule, space, capacity and performance requirements, and budgetary limitations relevant to the Project; (c) provide to Consultant all existing studies, reports, and other available data relevant to the Project; (d) arrange for access to and make all provisions for Consultant to enter upon public and private property as reasonably required for Consultant to perform the Services; (e) provide surveys describing physical characteristics, legal limitations, and utility locations for the Project and the services of geotechnical engineers or other consultants when such services are reasonably requested by Consultant, are necessary for the performance of the Services, and are not already provided for in Attachments B and D; (f) provide structural, mechanical, chemical, air and water pollution tests, test for hazardous materials, and other laboratory and environmental tests, inspections, and reports required by law to be provided by Owner in connection with the Project; (g) review and comment on all Required Submittals and other reports, documents, data, and information presented by Consultant; (h) except as otherwise provided in Attachment A, provide approvals from all governmental authorities having jurisdiction over the Project when such services are reasonably requested by Consultant, are necessary for the performance of the Services, and are not already provided for in Attachments B and D; (i) except as provided in Article IV of this Contract provide, all accounting, insurance, and legal counseling services as may be necessary from time to time in the sole judgment of Owner to protect Owner's interests with respect to the Project; (j) attend Project related meetings; and (k) give prompt written notice to Consultant whenever Owner observes or otherwise becomes aware of any development that affects the scope or timing of the Services, provided, however, that failure to give such notice shall not relieve Consultant of any of its responsibilities under this Contract.

1.9 Owner's Right to Terminate or Suspend Services for Convenience

A. Termination or Suspension for Convenience. Owner shall have the right, for its convenience, to terminate or suspend the Services in whole or in part at any time by written notice to Consultant. Every such notice shall state the extent and effective date of such termination or suspension. On such effective date, Consultant shall, as and to the extent directed, stop Services under this Contract, cease all placement of further orders or subcontracts, terminate or suspend Services under existing orders and subcontracts, and cancel any outstanding orders or subcontracts that may be canceled. Consultant shall be entitled to additional compensation or the right to terminate this Contract in the event of any suspension that exceeds a period of 90 days.

B. Payment for Completed Services. In the event of any termination pursuant to Subsection 1.9A above, Owner shall pay Consultant (1) such direct costs, including overhead, as Consultant shall have paid or incurred for all Services done in compliance with, and as required by or pursuant to, this Contract up to the effective date of termination; and (2) such other costs pertaining to the Services, exclusive of overhead and profit, as Consultant may have reasonably and necessarily incurred as the result of such termination. Any such payment shall be offset by any prior payment or payments and shall be subject to Owner's rights to withhold and deduct as provided in this Contract.

ARTICLE II CHANGES AND DELAYS

2.1 Changes

Owner shall have the right, by written order executed by Owner, to make changes in the Contract, the Project, the Services and the Contract Time ("Change Order"). If any Change Order causes an increase or decrease in the amount of the Services, an equitable adjustment in the Contract Price or Contract Time may be made. No decrease in the amount of the Services caused by any Change Order shall entitle Consultant to make any claim for damages, anticipated profits, or other compensation.

2.2 Delays

For any delay that may result from causes that could not be avoided or controlled by Consultant, Consultant shall, upon timely written application, be entitled to issuance of a Change Order providing for an extension of the Contract Time for a period of time equal to the delay resulting from such unavoidable cause. No extension of the Contract Time shall be allowed for any other delay in completion of the Services.

2.3 No Constructive Change Orders

No claims for equitable adjustments in the Contract Price or Contract Time shall be made or allowed unless embodied in a Change Order. If Owner fails to issue a Change Order including, or fully including, an equitable adjustment in the Contract Price or Contract Time to which Consultant claims it is entitled, or, if Consultant believes that any requirement, direction, instruction, interpretation, determination, or decision of Owner entitles Consultant to an equitable adjustment in the Contract Price or Contract Time that has not been included, or fully included, in a Change Order, then Consultant shall submit to Owner a written request for the issuance of, or revision of, a Change Order, including the equitable adjustment, or the additional equitable adjustment, in the Contract Price or Contract Time that Consultant claims has not been included, or fully included, in a Change Order. Such request shall be submitted before Consultant proceeds with any Services for which Consultant claims an equitable adjustment is due and shall, in all events, be submitted no later than ten business days after receipt of such Change Order or receipt of notice of such requirement, direction, instruction, interpretation, determination, or decision. Unless Consultant submits such a request within ten business days after receipt of such Change Order or receipt of notice of such requirement, direction, instruction, interpretation, determination, or decision, Consultant shall be conclusively deemed (1) to have agreed that such Change Order, requirement, direction, instruction, interpretation, determination, or decision does not entitle Consultant to an equitable adjustment in the Contract Price or Contract Time and (2) to have waived all claims for additional compensation or an extension of time based on such Change Order, requirement, direction, instruction, interpretation, determination, or decision.

ARTICLE III
CONSULTANT'S RESPONSIBILITY FOR DEFECTIVE SERVICES

3.1 Standard of Care

A. Standard of Care. Consultant represents that the Services and all of its components shall be free from errors and omissions in design; shall conform to the requirements of this Contract; and shall be performed in accordance with recognized industry standards of professional practice, care, and diligence practiced by reputable consulting firms in performing services of a similar nature in existence at the time of performance of the Services for a similar type of owner operating similar facilities. The representation herein expressed shall be in addition to any other representations expressed in this Contract, or expressed or implied by applicable law, which are hereby reserved unto Owner.

B. Opinions of Cost. It is recognized that neither Consultant nor Owner has control over the costs of labor, material, equipment or services furnished by others or over competitive bidding, market or negotiating conditions, or construction contractors' methods of determining their prices. Accordingly, any opinions of probable Project costs or construction costs provided for herein are estimates only, made on the basis of Consultant's experience and qualifications and represent Consultant's judgment as an experienced and qualified professional, familiar with the industry. Consultant does not guaranty that proposals, bids or actual Project costs or construction costs will not vary from opinions of probable cost prepared by Consultant.

C. Defective Services. Whenever the term "defective" is used in the this Contract, the term shall mean professional services that fail to conform to this Section 3.1 and/or any specific terms and requirements contained in this Contract.

3.2 Corrections

Consultant shall be responsible for the quality, technical accuracy, completeness and coordination of all reports, documents, data, information and other items and services under this Contract. Consultant shall, promptly and without charge, provide, to the reasonable satisfaction of Owner, all corrective Services necessary as a result of Consultant's negligent errors or omissions, negligent acts, or failure to meet the requirements of this Contract.

3.3 Risk of Loss

Consultant shall be responsible for damages to property or persons as a result of Consultant's negligent errors or omissions, negligent acts, or failure to meet the requirements of this Contract and for any losses or costs to repair or remedy any work undertaken by Owner based upon the Services as a direct result of any such negligent errors or omissions, negligent acts, or failure to meet the requirements of this Contract. Notwithstanding any other provision of this Contract, Consultant's obligations under this Section 3.3 shall exist without regard to, and shall not be construed to be waived by, the availability or unavailability of any insurance, either of Owner or Consultant, to indemnify, hold harmless or reimburse Consultant for such damages, losses or costs.

ARTICLE IV
FINANCIAL ASSURANCES

4.1 Insurance

Contemporaneous with Consultant's execution of this Contract, Consultant shall provide certificates of insurance evidencing at least the minimum insurance coverages and limits set forth in Attachment A in a form acceptable to Owner and evidencing insurance coverages from companies with a general rating of A minus or better, and a financial size category of Class V or better, in Best's Insurance Guide and otherwise acceptable to Owner. Such insurance shall provide that no cancellation of any insurance shall become effective until the expiration of 30 days after written notice thereof shall have been given by the insurance company to Consultant. Consultant shall notify Owner of any substantial changes or modification in such coverage within 30 days after Consultant becomes aware of same. Consultant shall immediately pass any such notice to Owner. Consultant shall, at all times while providing, performing, or completing the Services, including, without limitation, at all times while correcting any failure to meet the requirements of this Contract, maintain and keep in force, at Consultant's expense, at least the minimum insurance coverages and limits set forth in Attachment A.

4.2 Indemnification

Consultant shall, without regard to the availability or unavailability of any insurance, either of Owner or Consultant, indemnify, save harmless, and defend Owner against any and all lawsuits, claims, demands, damages, liabilities, losses, and expenses, including reasonable attorneys' fees and administrative expenses, to the extent caused by any negligent act, error, or omission in Consultant's performance of, or failure to perform, the Services or any part thereof, except to the extent caused by the negligence of Owner.

ARTICLE V
PAYMENT

5.1 Contract Price

Owner shall pay to Consultant, in accordance with and subject to the terms and conditions set forth in this Article V and Attachment A, and Consultant shall accept in full satisfaction for providing, performing, and completing the Services, the amount or amounts set forth in Attachment A ("Contract Price"), subject to any additions, deductions, or withholdings provided for in this Contract.

5.2 Taxes, Benefits and Royalties

The Contract Price includes all applicable federal, state, and local taxes of every kind and nature applicable to the Services as well as all taxes, contributions, and premiums for unemployment insurance, old age or retirement benefits, pensions, annuities, or other similar benefits and all costs, royalties, and fees arising from the use on, or the incorporation into, the Services, of patented equipment, materials, supplies,

tools, appliances, devices, processes, or inventions. All claim or right to claim additional compensation by reason of the payment of any such tax, contribution, premium, costs, royalties, or fees is hereby waived and released by Consultant.

5.3 Progress Payments

A. **Payment in Installments.** The Contract Price shall be paid in monthly installments in the manner set forth in Attachment A ("Progress Payments").

B. **Pay Requests.** Consultant shall, as a condition precedent to its right to receive each Progress Payment, submit to Owner an invoice accompanied by such receipts, vouchers, and other documents as may be necessary to establish Consultant's prior payment for all labor, material, and other things covered by the invoice and the absence of any interest, whether in the nature of a lien or otherwise, of any party in any property, work, or fund with respect to the Services performed under this Contract. In addition to the foregoing, such invoice shall include (a) employee classifications, rates per hour, and hours worked by each classification, and, if the Services are to be performed in separate phases, for each phase; (b) total amount billed in the current period and total amount billed to date, and, if the Services are to be performed in separate phases, for each phase; (c) the estimated percent completion, and, if the Services are to be performed in separate phases, for each phase; and (d) Consultant's certification that all prior Progress Payments have been properly applied to the Services with respect to which they were paid. Owner may, by written notice to Consultant, designate a specific day of each month on or before which pay requests must be submitted.

5.4 Final Acceptance and Final Payment

The Services, or, if the Services are to be performed in separate phases, each phase of the Services, shall be considered complete on the date of final written acceptance by Owner of the Services or each phase of the Services, as the case may be, which acceptance shall not be unreasonably withheld or delayed. The Services or each phase of the Services, as the case may be, shall be deemed accepted by Owner if not objected to in writing within 30 days after submission by Consultant of the Services or such phase of Services for final acceptance and payment plus, if applicable, such additional time as may be considered reasonable for obtaining approval of governmental authorities having jurisdiction to approve the Services, or phase of Services, as the case may be. As soon as practicable after final acceptance, Owner shall pay to Consultant the balance of the Contract Price or, if the Services are to be performed in separate phases, the balance of that portion of the Contract Price with respect to such phase of the Services, after deducting therefrom all charges against Consultant as provided for in this Contract ("Final Payment"). The acceptance by Consultant of Final Payment with respect to the Services or a particular phase of Services, as the case may be, shall operate as a full and complete release of Owner of and from any and all lawsuits, claims, demands, damages, liabilities, losses, and expenses of, by, or to Consultant for anything done, furnished for, arising out of, relating to, or in connection with the payment for Services or a particular phase of Services, as the case may be, or for or on account of any act or neglect of Owner

arising out of, relating to, or in connection with the Services or a particular phase of Services, as the case may be.

5.5 Deductions

A. **Owner's Right to Withhold.** Notwithstanding any other provision of this Contract and without prejudice to any of Owner's other rights or remedies, Owner shall have the right at any time or times, whether before or after approval of any pay request, to deduct and withhold from any Progress or Final Payment that may be or become due under this Contract such amount as may reasonably appear necessary to compensate Owner for any actual or prospective loss due to: (1) Services that are defective, nonconforming or incomplete, or contain errors; (2) damage for which Consultant is liable under this Contract; (3) liens or claims of lien regardless of merit unless bonded over by Consultant or unless such liens were a result of Owner's failure to comply with its payment obligations in this Contract; (4) delay in the progress or completion of the Services unless due to causes that could not be avoided or controlled by Consultant; (5) inability of Consultant to complete the Services; (6) failure of Consultant to properly complete or document any pay request; (7) any other failure of Consultant to perform any of its obligations under this Contract; or (8) the cost to Owner, including reasonable attorneys' fees and administrative costs, of correcting any of the aforesaid matters or exercising any one or more of Owner's remedies set forth in Section 6.1 of this Contract; provided, however, that Owner has provided Consultant with advance written notice of any such event, and Consultant has failed to cure or start to cure with due diligence such matter within ten business days after receipt of such written notice.

B. **Use of Withheld Funds.** Owner shall be entitled to retain any and all amounts withheld pursuant to Subsection 5.5A above until Consultant shall have either performed the obligations in question or furnished security for such performance satisfactory to Owner. If such matter is not cured or if efforts to cure with due diligence are not started by Consultant within ten business days after receipt of written notice from Owner as provided herein, Owner shall be entitled to apply any money withheld or any other money due Consultant under this Contract to reimburse itself for any and all costs, expenses, losses, damages, liabilities, suits, judgments, awards, reasonable attorneys' fees, and reasonable administrative expenses incurred, suffered, or sustained by Owner and chargeable to Consultant under this Contract.

5.6 Accounting

Consultant shall keep accounts, books, and other records of all its billable charges and costs incurred in performing the Services in accordance with generally accepted accounting practices, consistently applied, and in such manner as to permit verification of all entries. Consultant shall make all such material available for inspection by Owner, at all reasonable times during this Contract and for a period of three years following termination of this Contract. Copies of such material shall be furnished, at Owner's expense, upon request.

ARTICLE VI REMEDIES

6.1 Owner's Remedies

If it should appear at any time prior to Final Payment for all work that Consultant has failed or refused to prosecute, or has delayed in the prosecution of, the Services with diligence at a rate that assures completion of the Services in full compliance with the requirements of this Contract, or has attempted to assign this Contract or Consultant's rights under this Contract, either in whole or in part, or has falsely made any representation or warranty in this Contract, or has otherwise failed, refused, or delayed to perform or satisfy any other requirement of this Contract or has failed to pay its debts as they come due ("Event of Default"), and has failed to cure or begin to cure with due diligence any such Event of Default within ten business days after Consultant's receipt of written notice of such Event of Default, then Owner shall have the right, at its election and without prejudice to any other remedies provided by law or equity, to pursue any one or more of the following remedies:

1. Owner may require Consultant, within such reasonable time as may be fixed by Owner, to complete or correct all or any part of the Services that are defective, nonconforming or incomplete, or contain errors; to accelerate all or any part of the Services; and to take any or all other action necessary to bring Consultant and the Services into compliance with this Contract.
2. Owner may accept the Services that are defective, nonconforming, incomplete, or dilatory, or contain errors, or part thereof, and make an equitable reduction in the Contract Price.
3. Owner may terminate this Contract without liability for further payment of amounts due or to become due under this Contract.
4. Owner may withhold from any Progress Payment or Final Payment, whether or not previously approved, or may recover from Consultant, any and all costs, including reasonable attorneys' fees and administrative expenses, incurred by Owner as the result of any Event of Default or as a result of actions taken by Owner in response to any Event of Default.
5. Owner may recover direct damages suffered by Owner.

6.2 Terminations and Suspensions Deemed for Convenience

Any termination or suspension of Consultant's rights under this Contract for an alleged default that is ultimately held unjustified shall automatically be deemed to be a termination or suspension for the convenience of Owner under Section 1.9 of this Contract.

ARTICLE VII
LEGAL RELATIONSHIPS AND REQUIREMENTS

7.1 Binding Effect

This Contract shall be binding upon Owner and Consultant and upon their respective heirs, executors, administrators, personal representatives, and permitted successors and assigns. Every reference in this Contract to a party shall also be deemed to be a reference to the authorized officers, employees, agents, and representatives of such party.

7.2 Relationship of the Parties

Consultant shall act as an independent contractor in providing and performing the Services. Nothing in, nor done pursuant to, this Contract shall be construed (1) to create the relationship of principal and agent, partners, or joint venturers between Owner and Consultant or (2) to create any relationship between Owner and any subcontractor of Consultant.

7.3 No Collusion/Prohibited Interests

Consultant hereby represents and certifies that Consultant is not barred from contracting with a unit of state or local government as a result of (i) a violation of either Section 33E-3 or Section 33E-4 of Article 33E of the Criminal Code of 1961, 720 ILCS 5/33E-1 et seq.; or (ii) a violation of the USA Patriot Act of 2001, 107 Public Law 56 (October 26, 2001) (the "Patriot Act") or other statutes, orders, rules, and regulations of the United States government and its various executive departments, agencies and offices related to the subject matter of the Patriot Act, including, but not limited to, Executive Order 13224 effective September 24, 2001.

Consultant hereby represents that the only persons, firms, or corporations interested in this Contract as principals are those disclosed to Owner prior to the execution of this Contract, and that this Contract is made without collusion with any other person, firm, or corporation. If at any time it shall be found that Consultant has, in procuring this Contract, colluded with any other person, firm, or corporation, then Consultant shall be liable to Owner for all loss or damage that Owner may suffer thereby, and this Contract shall, at Owner's option, be null and void.

Consultant hereby represents and warrants that neither Consultant nor any person affiliated with Consultant or that has an economic interest in Consultant or that has or will have an interest in the Services or will participate, in any manner whatsoever, in the Services is acting, directly or indirectly, for or on behalf of any person, group, entity or nation named by the United States Treasury Department as a Specially Designated National and Blocked Person, or for or on behalf of any person, group, entity or nation designated in Presidential Executive Order 13224 as a person who commits, threatens to commit, or supports terrorism, and neither Consultant nor any person affiliated with Consultant or that has an economic interest in Consultant or that has or will have an interest in the Services or will participate, in any manner

whatsoever, in the Services is, directly or indirectly, engaged in, or facilitating, the Services on behalf of any such person, group, entity or nation.

7.4 Assignment

Consultant shall not (1) assign this Contract in whole or in part, (2) assign any of Consultant's rights or obligations under this Contract, or (3) assign any payment due or to become due under this Contract without the prior express written approval of Owner, which approval shall not be unreasonably withheld; provided, however, that Owner's prior written approval shall not be required for assignments of accounts, as defined in the Illinois Commercial Code, if to do so would violate Section 9-318 of the Illinois Commercial Code, 810 ILCS 5/9-318. Owner may assign this Contract, in whole or in part, or any or all of its rights or obligations under this Contract, without the consent of Consultant.

7.5 Confidential Information

All information supplied by Owner to Consultant for or in connection with this Contract or the Services shall be held confidential by Consultant and shall not, without the prior express written consent of Owner, be used for any purpose other than performance of the Services. Confidential information shall not include any information of Owner that is required by law to be disclosed to any governmental agency, provided that before making such disclosure, Consultant shall give Owner a written notice and an opportunity to object to the disclosure or take action to assure confidential handling of the information.

7.6 No Waiver

No examination, inspection, investigation, test, measurement, review, determination, decision, certificate, or approval by Owner, nor any order by Owner for the payment of money, nor any payment for, or use, occupancy, possession, or acceptance of, the whole or any part of the Services by Owner, nor any extension of time granted by Owner, nor any delay by Owner in exercising any right under this Contract, nor any other act or omission of Owner shall constitute or be deemed to be an acceptance of any Services which are defective, nonconforming or incomplete, or contain errors, nor operate to waive or otherwise diminish the effect of any warranty or representation made by Consultant; or of any requirement or provision of this Contract; or of any remedy, power, or right of Owner.

7.7 No Third Party Beneficiaries

No claim as a third party beneficiary under this Contract by any person, firm, or corporation other than Consultant shall be made or be valid against Owner.

7.8 Notices

All notices required or permitted to be given under this Contract shall be in writing and shall be deemed received by the addressee thereof when delivered in person on a business day at the address set forth below or on the third business day

after being deposited in any main or branch United States post office, for delivery at the address set forth below by properly addressed, postage prepaid, certified or registered mail, return receipt requested.

Notices and communications to Owner shall be addressed to, and delivered at, the following address:

DuPage Water Commission
600 East Butterfield Road
Elmhurst, Illinois 60126-4642
Attention: **[TBD]**

Notices and communications to Consultant shall be addressed to, and delivered at, the following address:

Robinson Engineering, Ltd.
127 N. Walnut Street, Suite 200
Itasca, IL 60123
Attention: Mr. Aaron E. Fundich, PE

The foregoing shall not be deemed to preclude the use of other non-oral means of notification or to invalidate any notice properly given by any such other non-oral means.

By notice complying with the requirements of this Section 7.8, Owner and Consultant each shall have the right to change the address or addressee or both for all future notices to it, but no notice of a change of address or addressee shall be effective until actually received.

7.9 Governing Laws

This Contract and the rights of Owner and Consultant under this Contract shall be interpreted according to the internal laws, but not the conflict of laws rules, of the State of Illinois.

7.10 Changes in Laws

Unless otherwise explicitly provided in this Contract, any reference to laws shall include such laws as they may be amended or modified from time to time.

7.11 Compliance with Laws and Grants

Consultant shall give all notices, pay all fees, and take all other action that may be necessary to ensure that the Services are provided, performed, and completed in accordance with all required governmental permits, licenses, or other approvals and authorizations that may be required in connection with providing, performing, and completing the Services, and with all applicable statutes, ordinances, rules, and regulations, including without limitation the Fair Labor Standards Act; any statutes

regarding qualification to do business; any statutes prohibiting discrimination because of, or requiring affirmative action based on, race, creed, color, national origin, age, sex, or other prohibited classification, including, without limitation, the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101 et seq., and the Illinois Human Rights Act, 775 ILCS 5/1-101 et seq. Consultant shall also comply with all conditions of any federal, state, or local grant received by Owner or Consultant with respect to this Contract or the Services.

Consultant shall be solely liable for any fines or civil penalties that are imposed by any governmental or quasi-governmental agency or body that may arise, or be alleged to have arisen, out of or in connection with Consultant's, or its subcontractors', performance of, or failure to perform, the Services or any part thereof.

Every provision of law required by law to be inserted into this Contract shall be deemed to be inserted herein.

7.12 Documents

Drawings, plans, specifications, photos, reports, information, observations, calculations, notes and any other reports, documents, data or information, in any form, prepared, collected, or received by Consultant in connection with any or all of the Services (the "Documents") shall, upon payment to Consultant of all amounts due under this Contract, be and remain the property of Owner and shall not, without the prior express written consent of Owner, be used for any purpose other than performance of the Services; provided, however, that any use thereof by Owner for purposes other than specifically anticipated in Consultant's scope of Services shall be at Owner's sole risk and cost. At Owner's request, or upon termination of this Contract, the Documents shall be delivered promptly to Owner. Consultant shall have the right to retain copies of the Documents for its files. Unless Owner shall consent in writing to the earlier destruction of the Documents, Consultant shall maintain files of all Documents for a period of five years after termination of this Contract. Consultant shall make, and shall cause all of its subcontractors to make, the Documents available for Owner's review, inspection and audit during the entire term of this Contract and for five years after termination of this Contract.

Nothing in this paragraph shall constitute or be construed to be any representation by the Consultant that the work product is suitable in any way for any other project except the one detailed in this agreement. Any reuse by the Owner shall be at the Owners sole risk and without liability or legal exposure to Consultant.

7.13 Time

The Contract Time is of the essence of this Contract. Except where otherwise stated, references in this Contract to days shall be construed to refer to calendar days.

7.14 Severability

The provisions of this Contract shall be interpreted when possible to sustain their legality and enforceability as a whole. In the event any provision of this Contract shall

be held invalid, illegal, or unenforceable by a court of competent jurisdiction, in whole or in part, neither the validity of the remaining part of such provision, nor the validity of any other provisions of this Contract shall be in any way affected thereby.

7.15 Entire Agreement

This Contract sets forth the entire agreement of Owner and Consultant with respect to the accomplishment of the Services and the payment of the Contract Price therefor, and there are no other understandings or agreements, oral or written, between Owner and Consultant with respect to the Services and the compensation therefor.

7.16 Amendments

No modification, addition, deletion, revision, alteration, or other change to this Contract shall be effective unless and until such change is reduced to writing and executed and delivered by Owner and Consultant.

IN WITNESS WHEREOF, Owner and Consultant have caused this Contract to be executed in two original counterparts as of the day and year first written above.

Attest/Witness:

DUPAGE WATER COMMISSION

By: _____

By: _____

Clerk

General Manager

Attest/Witness:

ROBINSON ENGINEERING, LTD.

By: 

By: 

Name: ALBERT. K. STEFAN, PE

Name: Aaron E. Fundich, PE

Title: ASSOCIATE

Title: Executive Vice President

ATTACHMENT A

SUPPLEMENTAL SCHEDULE OF CONTRACT TERMS

1. **Project:**

[INSERT NAME OF PROJECT]

2. **Approvals and Authorizations:**

[INSERT ANY REQUIRED BY THE PROJECT]

3. **Commencement Date:**

[INSERT THE DATE OF EXECUTION OF THE CONTRACT BY OWNER]

4. **Completion Date:**

To be agreed upon before contract execution:

- A. **Task 1:** ____ days following the Commencement Date plus extensions, if any, authorized by a Change Order issued pursuant to Section 2.1 of the Contract.
- B. **Task 2:** ____ days following issuance of Notice to Proceed by Owner plus extensions, if any, authorized by a Change Order issued pursuant to Section 2.1 of the Contract.
- C. **Task 3:** ____ days following issuance of Notice to Proceed by Owner plus extensions, if any, authorized by a Change Order issued pursuant to Section 2.1 of the Contract.

5. **Insurance Coverages:**

A. **Worker's Compensation and Employer's Liability** with limits not less than:

(1) **Worker's Compensation:** Statutory;

(2) **Employer's Liability:**

\$500,000 injury-per occurrence

\$500,000 disease-per employee

\$500,000 disease-policy limit

Such insurance shall evidence that coverage applies in the State of Illinois and provide a waiver of subrogation in favor of Owner. By entering into this agreement, the parties acknowledge that this limitation of liability clause has been reviewed, understood, is a

material part of this agreement, and each party has had the opportunity to seek legal advice regarding this provision."

- B. Commercial Motor Vehicle Liability with a combined single limit of liability for bodily injury and property damage of not less than \$1,000,000 for vehicles owned, non-owned, or rented.

All employees shall be included as insureds.

- C. Commercial General Liability with coverage written on an "occurrence" basis and with limits no less than:

- (1) Each Occurrence: \$1,000,000
- (2) General Aggregate: \$2,000,000
- (3) Completed Operations Aggregate: \$2,000,000
- (4) Personal Injury: \$1,000,000

Coverages shall include:

- Broad Form Property Damage Endorsement
- Blanket Contractual Liability

- D. Professional Liability Insurance. With a limit of liability of not less than \$2,000,000 per claim and covering Consultant against all sums that Consultant may be obligated to pay on account of any liability arising out of Consultant's negligent acts, errors, and omissions under the Contract. Such insurance, or such insurance as may then be commercially available in the marketplace, shall be maintained for a three year period from and after Final Payment.

- E. Umbrella Policy. The required coverages may be in any combination of primary, excess, and umbrella policies. Any excess or umbrella policy must provide excess coverage over underlying insurance on a following-form basis such that when any loss covered by the primary policy exceeds the limits under the primary policy, the excess or umbrella policy becomes effective to cover such loss.

- F. Owner as Additional Insured. Owner shall be named as an Additional Insured on the following policies:

Commercial Motor Vehicle Liability

Commercial General Liability

Each such additional Insured endorsement shall identify Owner as follows: The DuPage Water Commission, including its Board members

and elected and appointed officials, its officers, employees, named agents, including Owner's attorneys and representatives, as related to Consultant's Services under the Contract.

6. **Contract Price:**

SCHEDULE OF PRICES

For providing, performing, and completing each phase of Services, an amount equal to Consultant's Direct Labor Costs times a factor of 3.20 for all Services for all Services rendered by principals and employees engaged directly on the Project, plus an amount equal to the actual costs of all Reimbursable Expenses, but not to exceed, in each phase of Services, the following not to exceed amount set forth opposite each such phase except as adjusted by a Change Order issued pursuant to Section 2.1 of the Contract:

<u>Phase</u>	<u>Not to Exceed</u>
Task 1	\$ TBD
Task 2	\$ TBD
Task 3	\$ TBD

7. **Payments:**

For purposes of payments to Consultant, the value of the Services shall be determined as follows:

Direct Labor Costs shall mean actual wages paid to those members of staff who are classified as officers, engineers, technicians, draftsmen, and field party personnel engaged directly on the Project plus state and federal taxes, social security, employment and retirement benefits as defined in the American Society of Civil Engineers (ASCE) Manual No. 45.

Reimbursable Expenses shall mean the actual expenses incurred by Consultant directly or indirectly in connection with the Project, including expenses for transportation, telephone, postage, computer time and other highly specialized equipment, reproduction and similar Project related items.

ATTACHMENT B

SCOPE OF SERVICES

[INSERT DESCRIPTION OF SERVICES]

Consultant shall cooperate and work closely with representatives of Owner and other parties involved in the Project. Consultant shall meet with Owner and such other parties, and shall provide such consultation, advice, and reports, as required to adequately perform its responsibilities under the Contract. Consultant shall produce and deliver to Owner the results of its Services, plus any reports, documents, data, information, observations, or opinions set forth below or requested by Owner, in form or format as set forth below or, if none, in form or format of Owner's choosing.

1. **Basic Services.**

[INSERT LIST OF TASKS ASSOCIATED WITH PROJECT]

- a. **Task 1**
- b. **Task 2**
- c. **Task 3**

ATTACHMENT C

SUBMITTAL SCHEDULE

Submittal:

Due Date:

ATTACHMENT D

SPECIAL PROJECT REQUIREMENTS

1. **Key Project Personnel:**

Name:	Telephone:
Aaron E. Fundich, PE	815.412.2701
Albert K. Stefan, PE	815.412.2706

2. **Security:**

- A. **Description.** For security purposes, Owner investigates the background of personnel at its facilities and personnel engaged to perform services of a similar nature to the Services to be provided under the Contract and implements other security measures as it determines are necessary from time to time ("Security Program"). To obtain authorization to work at Owner's facilities or to be engaged to perform the Services, Consultant and its subcontractors must comply with the requirements of Owner's Security Program. Consultant shall remain as fully responsible and liable for the acts and omissions of all subcontractors and their respective agents and employees in connection with Owner's Security Program as it is for its own acts and those of its agents and employees, as set forth in the Contract.
- B. **Background Investigations.** Consultant personnel, including subcontractor personnel that will require access to Owner's facilities or that will be engaged to perform the Services shall submit all information requested by Owner in order to perform the necessary background investigations. Background information required by Owner may include:
- a. Information needed to complete a Conviction Information Request Non-Fingerprint Form (for background checks, including conviction information, conducted by the Illinois State Police Bureau of Identification)
 - b. Education History
 - c. Military Service
 - d. Character and Reputation References

e. Verification of Identity

f. Fingerprints

No Consultant personnel, including subcontractor personnel, will be granted unescorted access to Owner's facilities, nor shall any Consultant personnel, including subcontractor personnel, be engaged to perform the Services, until any background investigation required by Owner has been successfully completed. Owner reserves the right to order Consultant to remove from Owner's facilities any personnel, including subcontractor personnel, who Owner determines pose a threat to the security of Owner or its facilities. Any such person so removed shall not be engaged again on the Services.

- C. Search. Consultant personnel and vehicles, including subcontractor personnel and vehicles, allowed on Owner's property shall be subject to search when entering and leaving the property. By entering the property, Consultant personnel, including subcontractor personnel, authorize Owner to perform or have performed such searches of their persons or vehicles.
- D. Identification Badges. Owner shall issue identification badges to all Consultant personnel, including subcontractor personnel. All such personnel shall pick up their identification badges prior to entry onto Owner's property and shall return the badges at the end of each work day. All such personnel shall wear the identification badges in a prominent manner at all times when working on Owner property.
- E. No Liability. Neither Owner, nor any official or employee of Owner, nor any authorized assistant or agent of any of them, shall be responsible for the adequacy of Owner's security precautions and programs or any liability arising there from.

3. Facility Locations and Testing Results and Analysis:

Information as to the location of Owner's existing facilities and test results and recommendations received from other consultants have been indicated or provided solely for the convenience of Consultant. Owner assumes no responsibility whatever in respect to the sufficiency or accuracy of such information and such information is not guaranteed.

ATTACHMENT E

TYPICAL PLANS, SECTIONS, SCHEDULES, NOTES AND DETAILS

DATE: April 11, 2018

REQUEST FOR BOARD ACTION

AGENDA SECTION	Engineering & Construction Committee	ORIGINATING DEPARTMENT	Instrumentation/ Remote Facilities
ITEM	A Resolution Approving and Ratifying Certain Work Authorization Orders Under Quick Response Electrical Contract QRE-8/17 at the April 19, 2018, DuPage Water Commission Meeting (WAO 8.001) Resolution No. R-11-18	APPROVAL	

Account Numbers: 01-60-663300 (Estimated Cost \$13,310.00)

The Commission entered into certain agreements dated December 29, 2017, with McWilliams Electric Co. Inc. and with Volt Electric, Inc. for quick response electrical work as needed through the issuance of Work Authorization Orders. Resolution No. R-11-18 would approve the following Work Authorization Order under the Quick Response Electrical Contracts:

Work Authorization Order No. 001: This work authorization is to McWilliams Electric Co., Inc., for electrical repairs at seven (7) remote facilities. At five (5) meter stations the electrical service entrances are settling and heaving, causing the service conductors and conduits to shift and move, putting stress on the meter socket enclosure and inner structure of the meter socket causing damage. There is an additional meter station requiring the Heater Breaker Panel internal buss to be replaced due to a malfunctioning breaker causing melting and damage. At Tank Site #3 water is infiltrating an underground conduit and the wiring in that conduit for the tank mixing system. The wire is not rated to be exposed to moisture and will fail over time.

Proposals were received from both QRE-8/17 electrical contractors and their estimates are listed in the table below.

QRE Contractor	Description	Estimate
McWilliams Electric	Perform Electrical Repairs as required	\$13,310.00
Volt Electric	Perform Electrical Repairs as required	\$13,852.81

Approval of Resolution R-11-18 would approve Work Authorization Order No. 001 to McWilliams Electric Co., Inc. for the electrical repairs at various remote facilities at an estimated cost of \$13,310.00.

MOTION: To adopt Resolution No. R-11-18.

DUPAGE WATER COMMISSION

RESOLUTION NO. R-11-18

A RESOLUTION APPROVING AND RATIFYING
CERTAIN WORK AUTHORIZATION ORDERS
UNDER QUICK RESPONSE ELECTRICAL CONTRACT QRE-8/17
AT THE APRIL 19, 2018, DUPAGE WATER COMMISSION MEETING

WHEREAS, the DuPage Water Commission (the "Commission") entered into certain agreements dated December 29, 2017, with McWilliams Electric Co. Inc. and with Volt Electric, Inc., for quick response electrical work related to the Commission's Waterworks System (said agreements being hereinafter collectively referred to as "Contract QRE-8/17"); and

WHEREAS, Contract QRE-8/17 is designed to allow the Commission to direct one or more or all of the quick response electrical contractors to perform emergency electrical work, including without limitation electrical work that the Commission is unable to perform through its own personnel and with its own equipment, as needed through the issuance of Work Authorization Orders; and

WHEREAS, the need for such emergency electrical work could not have been reasonably foreseen at the time the contracts were signed;

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

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

SECTION TWO: The Work Authorization Orders attached hereto and by this reference incorporated herein and made a part hereof as Exhibit 1 shall be and hereby are

Resolution No. R-11-18

approved and, if already issued, ratified because the Board of Commissioners of the DuPage Water Commission has determined, based upon the representations of staff, that the circumstances said to necessitate the Work Authorization Orders were not reasonably foreseeable at the time the contracts were signed, the Work Authorization Orders are germane to the original contracts as signed, and/or the Work Authorization Orders are in the best interest of the DuPage Water Commission and authorized by law.

SECTION THREE: This Resolution shall constitute the written determination required by Section 33E-9 of the Criminal Code of 1961 and shall be in full force and effect from and after its adoption.

AYES:

NAYS:

ABSENT:

ADOPTED this ____ day of _____, 2018

Chairman

ATTEST:

Clerk

Exhibit 1

WORK AUTHORIZATION ORDER

SHEET 1 OF 2

CONTRACT QRE-8/17: QUICK RESPONSE ELECTRICAL CONTRACT

PROJECT: QRE-8.001

LOCATIONS:

Meter Station 5B, Grand Ave & Crown Rd, Elmhurst
Meter Station 8D, 3500 Finley Rd, Downers Grove
Meter Station 15H, 1924 Three Farms Ave, Naperville
Meter Station 16B, 1400 35th St., Oak Brook
Meter Station 17A, 746 E. Oliviabrook Dr., Oak Brook Terrace
Meter Station 24B, 7642 Woodridge Dr., Woodridge
Tank Site #3, 1111 E. Warrenville Rd, Naperville

CONTRACTOR:

McWilliams Electric Co., Inc.

DESCRIPTION OF WORK:

MS5B, MS8D, MS15H, MS16B, and MS17A: Disconnect and remove old meter socket/s enclosures and cut down existing service feed conduit to about 6" above grade. Install new meter socket/s and a new pedestal raceway down to ground level. Install ground rod and cable to meter socket enclosure, if needed. Splice additional cable length, if needed, to existing service conductors in pedestal raceway to create slack for future settling. Replace load side cables to breaker panels. Connect and test for proper voltage to breaker panels. Restore any disturbed landscaping to suitable condition.

MS24B: Replace heater breaker panel interior, replace all breakers and feeder cables from load side of meter to new panel.

TS#3: Replace existing C style conduit fitting with NEMA 4X stainless-steel box and drain fitting on end of 3/4" rigid conduit at control cabinet. This will allow water infiltrating the conduit to drip out of drain fitting and allow moisture to evaporate. Replace the 4 conductors with direct burial XLP 10 ga wire between control cabinet and side of tank. Add drain fitting to bottom of existing stainless-steel J-Box to allow condensation to evaporate.

REASON FOR WORK:

MS5B, MS8D, MS15H, MS16B, and MS17A: The electrical service meter socket enclosures are pulling away from the building, because the underground feeder cables are settling.

MS24B: The breaker panel interior buss is damaged from failed breaker overheating.

Tank Site #3: Ground water getting into conduit. Needs to be repaired before the wires fail.

MINIMUM RESPONSE TIME:

None

COMMISSION-SUPPLIED MATERIALS, EQUIPMENT AND SUPPLIES TO BE INCORPORATED INTO THE WORK:

None

THE WORK ORDERED PURSUANT TO THIS WORK AUTHORIZATION ORDER

IS IS NOT PRIORITY EMERGENCY WORK

SUBMITTALS REQUESTED:

None

SUPPLEMENTARY NOTIFICATION OF POTENTIALLY HAZARDOUS CONDITIONS:

None

SUPPLEMENTARY CONTRACT SPECIFICATIONS AND DRAWINGS:

None

DUPAGE WATER COMMISSION

By: _____
Signature of Authorized Representative

DATE: _____

CONTRACTOR RECEIPT ACKNOWLEDGED AND DESIGNATION OF SAFETY REPRESENTATIVE:

By: _____
Signature of Authorized Representative

Safety Rep: _____
Name and 24-Hr Phone No.

DATE: _____