



DuPage Water Commission

30 YEARS OF SERVICE
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AGENDA – Administration Committee

Thursday, November 17, 2022 6:15 P.M.

Committee Members

J. Broda
P. Gustin
J. Healy – Chair
K. Rush
J. Zay

-
- I. Roll Call
 - II. Approval of the October 20, 2022 Administration Committee Minutes
 - III. Ordinance No. O-4-22: An Ordinance approving and authorizing the execution of a Water Purchase and Sale Agreement between the DuPage Water Commission and Aqua Illinois for the Aqua Illinois-Oak Brook Unit System and an interim water supply agreement between the DuPage Water Commission and the Village of Oak Brook and Aqua Illinois.
 - IV. Resolution No. R-68-22: A Resolution approving employee insurance benefits for plan year beginning January 1, 2023 and ending December 31, 2023.
 - V. Resolution No. R-74-22: A Resolution authorizing and ratifying the disposal of certain personal property owned by the DuPage Water Commission.
 - VI. Request for Board Action: To Suspend the Purchasing Procedures of the Commission's By-Laws and Authorize the General Manager to approve Requisition No. 74964 in the amount of approximately \$51,000.00 to Hexagon (formerly Infor).
 - VII. Request for Board Action: To approve the 2023 Schedule of Meetings.
 - VIII. Old Business
 - IX. New Business
 - X. Other
 - a. Discussion of COVID/infectious disease sick leave policy
 - b. Review of Document Management Procedures
 - c. Ford Explorer purchase
 - XI. Adjournment

Minutes of a Meeting
of the

ADMINISTRATION COMMITTEE

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

October 20, 2022

Chairman Healy called the meeting to order at 6:16 P.M., and with a visual Roll Call confirmed the attendance of, J. Broda, P. Gustin, K. Rush, J. Zay.

Commissioner Broda moved to approve the minutes of the August 18, 2022 and September 15, 2022 Administration Committee Minutes, seconded by Commissioner Gustin, unanimously approved by a voice vote. All ayes, motion carried.

Commissioner Gustin moved to approve Resolution No. R-57-22, suspending the purchasing procedures and authorizing the approval of purchasing requisition No. 74811 to Roesch Ford for the purchase of one 2023 Ford Explorer in the amount of \$36,502.00. Commissioner Rush seconded, unanimously approved by a voice vote. All ayes, motion carried.

Commissioner Gustin moved to approve Resolution No. R-58-22, a Resolution reviewing certain Executive Session meeting minutes. Seconded by Commissioner Broda, unanimously approved by a voice vote. All aye, motion carried.

With there being no further business, Chairman Healy asked for a motion to adjourn, Commissioner Broda moved, seconded by Commissioner Gustin, unanimously approved by a voice vote. All ayes, motion carried.

The meeting was adjourned at 6:17 P.M.



Ordinance #: O-4-22

Account: Not Applicable

Approvals: *Author / Manager / Finance / Admin*

RCB RCB CAP PDM

REQUEST FOR BOARD ACTION

Date: 11/10/2022

Description: An Ordinance Approving and Authorizing the Execution of a Water Purchase and Sale Agreement Between the DuPage Water Commission and Aqua Illinois for the Aqua Illinois-Oak Brook Unit System and an Interim Water Supply Agreement between the DuPage Water Commission, the Village of Oak Brook and Aqua Illinois

Agenda Section: Administration Committee

Originating Department: Administration

In 2019, the Village of Oak Brook approached the Commission to seek input on the Village's plan to sell off certain portions of the Village's Unit System (the "Zones"), that lay outside of their municipal limits, to the privately owned utility company, Aqua Illinois.

After research by legal counsel, Staff has determined that the sale of said Zones of the Village's Unit System are not in conflict with the terms and condition of the Charter Customer Agreement. The Village and Aqua Illinois entered into an Asset Purchase Agreement for the Zones as of April 27, 2021.

Staff has been working on developing the contractual means and methods to serve the needs of the Commission, the Village, and the Aqua Illinois Zones. The Water Purchase and Sale Agreement, attached as Exhibit 1 to this ordinance provide the details which are substantially in the same form as all other Water Purchase and Sale Agreements for Subsequent Customers. The singular variation from all other Subsequent Customer Agreements is delineated within the Interim Water Supply Agreement between the Commission, the Village and Aqua Illinois, attached to this ordinance as Exhibit 2.

The Interim Water Supply Agreement would allow for the Zones to be continually served by the Village until such time as Aqua Illinois connects the Zones to the Commissions waterwork system or as an alternative, successfully negotiate with an existing Contract Customer to supply the Aqua Illinois Zone's full water requirement and disconnect from the Village's system, however with a time limit of three (3) years.

Early stages of discussion between the Commission and Staff centered around the risk of the Commission losing its tax-exempt status if it were to sell more than five percent (5%) of its water to private entities. In taking on the Aqua Illinois Oak Brook transfer zones and considering the loss of sales to the Village of Oak Brook, the recalculation of the percentage of Commissions sales to private entities increases Commission sales to private entities from 2.43% to 3.12%. This is based on the most recent and best available data.

Finally, while Aqua Illinois endeavors to receive their own Lake Michigan water allocation from the Illinois Department of Natural Resources (IDNR), of which the Buy-In costs and water storage requirements are calculated, the Interim Water Supply Agreement dictates that the Village of Oak Brook's registered retail water sales to the affected customers will be utilized to determine the interim Buy-In costs. Once Aqua Illinois receives their IDNR allocation, the Buy-In costs will be adjusted accordingly. Using the Oak Brook's registered retail water sales for 2012, the calculated Capital Risk Recovery Charge (the Buy-In) at this time equates to \$2,360,107.00. In addition, Aqua Illinois is responsible for all costs related to legal, engineering and construction of Commission Connection Facilities in escrow in the sum of 125% of estimated costs.

In accordance with the Subsequent Customer Agreement, the Chairman shall not sign the agreement unless all contractually required documentation is received by the Commission including the Capital Risk Recovery Charge (the Buy-In).

Recommended Motion:

To adopt Ordinance O-4-22

DUPAGE WATER COMMISSION

ORDINANCE NO. O-4-22

AN ORDINANCE APPROVING AND AUTHORIZING THE EXECUTION OF A WATER PURCHASE AND SALE AGREEMENT BETWEEN THE DUPAGE WATER COMMISSION AND AQUA ILLINOIS FOR THE AQUA ILLINOIS-OAK BROOK UNIT SYSTEM AND AN INTERIM WATER SUPPLY AGREEMENT BETWEEN THE DUPAGE WATER COMMISSION, THE VILLAGE OF OAK BROOK AND AQUA ILLINOIS

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

WHEREAS, the Village of Oak Brook owns and operates a waterworks system known as the Village of Oak Brook Unit System which services five discreet and non-contiguous zones outside of its municipal boundaries ; and

WHEREAS, the Village of Oak Brook has entered into an Asset Purchase Agreement with Aqua Illinois to transfer the ownership of the five discreet and non-contiguous zones; and

WHEREAS, Aqua Illinois desires to purchase Lake Michigan water from the Commission; and

WHEREAS, the Commission and Aqua Illinois have each determined that it is in their respective best interests to enter into a Water Purchase and Sale Contract in substantially the form attached hereto and by this reference incorporated herein and made a part of as Exhibit 1; and

WHEREAS, the Commission, Oak Brook and Aqua Illinois have each determined that it is in their best interests to enter into an Interim Water Supply Agreement in substantially the form attached hereto and by this reference incorporated herein and made part of as Exhibit 2; and

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

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

SECTION TWO: A Water Purchase and Sale Contract between the DuPage Water Commission and Aqua Illinois for the Aqua-Oak Brook Unit System, in substantially the form attached hereto as Exhibit 1, is hereby approved.

SECTION THREE: An Interim Water Supply Agreement between the DuPage Water Commission, the Village of Oak Brook and Aqua Illinois, in substantially the form attached hereto as Exhibit 2, is hereby approved.

SECTION FOUR: The Chairman of the DuPage Water Commission shall be and hereby is authorized to and directed to execute a Water Purchase and Sale Contract with Aqua Illinois in substantially the form attached hereto as Exhibit 1; provided, however, that said Water Purchase and Sale Contract shall not be so executed on behalf of the DuPage Water Commission unless and until the Chairman shall have been presented with copies of the completed Water Purchase and Sale Contract executed by Aqua Illinois.

SECTION FIVE: The Chairman of the DuPage Water Commission shall be and hereby is authorized to and directed to execute an Interim Water Supply Agreement with the Village of Oak Brook and Aqua Illinois in substantially the form attached hereto as Exhibit 2; provided, however, that said Interim Water Supply Agreement shall not be so executed on behalf of the DuPage Water Commission unless and until the Chairman shall have been presented with copies of the completed Interim Water Supply Agreement executed by both the Village of Oak Brook and Aqua Illinois and, Aqua Illinois has paid in full the required Capital Cost Recovery Charges.

SECTION SIX: Upon execution by the Chairman, the Water Purchase and Sale Contract, the Interim Water Supply Agreement and all other things provided for therein, shall be deemed accepted by the DuPage Water Commission without further act.

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

Ordinance No. O-4-22

| | Aye | Nay | Absent | Abstain |
|---------------|-----|-----|--------|---------|
| Bouckaert, D. | | | | |
| Broda, J. | | | | |
| Fennell, J. | | | | |
| Gans, R. | | | | |
| Gustin, P. | | | | |
| Healy, J. | | | | |
| Novotny, D. | | | | |
| Pruyn, J. | | | | |
| Rush, K. | | | | |
| Russo, D. | | | | |
| Saverino, F. | | | | |
| Suess, P. | | | | |
| Zay, J. | | | | |

ADOPTED this _____ day of _____, 2022

James Zay, Chairman

ATTEST:

Danna Mundall, Clerk

O-4-22

EXHIBIT 1

PURCHASE AND SALE CONTRACT

O-4-22
EXHIBIT 1

DuPAGE WATER COMMISSION WATER
PURCHASE AND SALE CONTRACT

Between

The DuPage Water Commission

and

Aqua Illinois, Inc.

FOR the AQUA-OAK BROOK SYSTEM

DATED: _____, 2022

O-4-22
EXHIBIT 1

DuPAGE WATER COMMISSION
WATER PURCHASE AND SALE CONTRACT WITH
AQUA ILLINOIS, INC. for the
AQUA-OAK BROOK SYSTEM

Table of Contents

| SECTION | PAGE |
|---|-------------|
| SECTION 1. PREAMBLES | 8 |
| SECTION 2. DEFINITIONS. | 8 |
| SECTION 3. WATER SUPPLY | 17 |
| A. Agreement to Sell and Purchase | 17 |
| B. Beginning of Obligations to Deliver and Receive Lake Water | 17 |
| C. Closing Contingency | 17 |
| D. Limits on Supply | 17 |
| E. Additional Subsequent Customers | 17 |
| F. Emergency or Maintenance Turn-Off | 18 |
| G. Curtailment; Emergency Use of Other Sources | 19 |
| H. Water Quality | 19 |
| SECTION 4. DELIVERY; STORAGE; DISTRIBUTION; CONSERVATION. | 20 |
| A. Aqua-Oak Brook System Connection Facilities | 20 |
| B. Alternate Delivery Through Contract Customer Facilities | 20 |
| C. Interim Water Deliveries | 21 |
| D. Construction and Operation of Emergency Interconnections | 22 |
| E. Storage | 25 |
| F. Surges and Back-Flows | 26 |
| G. Maintenance of System; Water Quality; Prevention of Waste | 26 |
| SECTION 5. MEASURING EQUIPMENT. | 26 |
| A. Metering Station and Instrumentation | 26 |
| B. Records | 27 |
| C. Calibration | 27 |

O-4-22
EXHIBIT 1

| SECTION | PAGE |
|--|-------------|
| D. Check Meters | 28 |
| E. Meter Malfunctions | 28 |
| F. Removal of Metering Station and SCADA System Facilities | 29 |
| SECTION 6. UNIT OF MEASUREMENT. | 29 |
| SECTION 7. PRICES AND TERMS OF PAYMENT. | 30 |
| A. Operation and Maintenance Costs Payment | 30 |
| B. Fixed Costs Payment | 30 |
| C. Connection Facilities Cost Payment. | 31 |
| D. Capital Cost Recovery Charge Payment | 33 |
| E. Underconsumption Costs Payment | 33 |
| F. Default Shares | 34 |
| G. Bills and Due Date | 34 |
| H. Disputed Payments | 34 |
| I. Interest on Overdue Payments | 35 |
| J. Security Deposit | 36 |
| K. Enforcement of Provisions Hereof By Other Customers | 36 |
| L. Beginning of Obligation to Pay | 37 |
| M. Provisions in Lieu of Water Allocation | 37 |
| SECTION 8. SPECIAL CONDITIONS AND COVENANTS | 37 |
| A. Construction of Commission Connection Facilities; No Delay Damages; Supply of Lake Water | 38 |
| B. Lake Water Only; Costs | 38 |
| C. Title to Lake Water | 39 |
| D. Emergency Supply | 39 |
| E. Covenants to Be Set Out in Bond Ordinance | 39 |
| F. Payments Hereunder an Operation Expense of Aqua System | 39 |
| SECTION 9. ADDITIONAL AQUA-OAK BROOK COVENANTS. | 40 |
| A. Maintenance of Corporate Existence | 40 |

O-4-22
EXHIBIT 1

| SECTION | PAGE |
|---|-------------|
| B. Maintenance and Operation of Aqua-Oak Brook System | 40 |
| C. Rate Covenant | 41 |
| D. Future Subordination of Obligations | 42 |
| E. General Covenant to Operate Properly | 42 |
| F. Accounting and Audit | 42 |
| G. Maintain Ownership of Aqua-Oak Brook System | 42 |
| H. Sale, Lease, Mortgage, or other Encumbrance of Aqua-Oak Brook System | 42 |
| I. Insurance | 43 |
| J. Continue to Serve | 44 |
| K. Maintain Water Allocation | 44 |
| L. Release and Indemnification | 44 |
| M. Rate of Withdrawal | 45 |
| N. Aqua Not Barred from Contracting | 45 |
| SECTION 10. SCHEDULE FOR COMPLETION OF VARIOUS FACILITIES. | 45 |
| A. Plans and Specifications for Aqua-Oak Brook System Connection Facilities | 45 |
| B. IEPA and Other Approvals For Aqua-Oak Brook System Connection Facilities | 45 |
| C. Commencement of Construction of Aqua-Oak Brook System Connection Facilities | 45 |
| D. Plans and Specifications for Water Storage Facilities. | 46 |
| E. IEPA and Other Approvals for Water Storage Facilities | 46 |
| F. Commencement of Construction of Water Storage Facilities | 46 |
| G. Transfer of Property Rights | 47 |
| H. Commencement of Construction of Commission Connection Facilities | 46 |
| I. Illustrative Schedule of Events | 47 |
| SECTION 11. ASSIGNABILITY. | 47 |
| SECTION 12. TRANSFER WITHOUT CONSENT, DISSOLUTION, INSOLVENCY, OR IMPAIRMENT OF OBLIGATIONS | 48 |

O-4-22
EXHIBIT 1

| SECTION | PAGE |
|---|-------------|
| SECTION 13. FORCE MAJEURE. | 49 |
| SECTION 14. COMMISSION DEFAULTS | 49 |
| SECTION 15. AQUA OBLIGATION UNCONDITIONAL. | 50 |
| SECTION 16. COOPERATION IN CONSTRUCTION; EASEMENTS. | 51 |
| SECTION 17. TAX COVENANTS | 51 |
| SECTION 18. COOPERATION IN ISSUANCE OF BONDS. | 51 |
| SECTION 19. REGULATORY BODIES | 52 |
| SECTION 20. OTHER WATER SUPPLIERS. | 53 |
| SECTION 21. NOTICES; EVIDENCE OF ACTIONS | 53 |
| A. Notices | 53 |
| B. Evidence of Actions | 53 |
| SECTION 22. EFFECTIVE DATE; ICC APPROVAL; TERM. | 54 |
| A. Effective Date | 54 |
| B. ICC Approval | 54 |
| C. Term | 54 |
| SECTION 23. REGULATORY PROCEEDINGS | 55 |
| SECTION 24. GOVERNING LAW. | 55 |
| SECTION 25. MISCELLANEOUS | 55 |
| A. Waiver | 55 |
| B. Partial Invalidity | 56 |
| C. Payment of Interest Costs | 56 |
| D. Commission Remedies | 56 |
| SECTION 26. MODIFICATIONS OR AMENDMENTS | 57 |
| SECTION 27. EXHIBITS INCORPORATED | 57 |
| SECTION 28. EXECUTION IN COUNTERPARTS | 57 |

O-4-22
EXHIBIT 1

DuPAGE WATER COMMISSION
WATER PURCHASE AND SALE CONTRACT WITH
AQUA ILLINOIS INC.
FOR THE AQUA-OAK BROOK SYSTEM

This Water Purchase and Sale Contract (also referred to herein as this “Agreement” or the “Subsequent Customer Contract”), dated as of _____, 2022, by and between the DuPAGE WATER COMMISSION, DuPage, Cook, and Will Counties, State of Illinois (the “Commission”), a county water commission and public corporation under Division 135 of Article 11 of the Illinois Municipal Code, 65 ILCS 5/11-135-1 et seq., and the Water Commission Act of 1985, 70 ILCS 3720/1 et seq. (collectively, the “Act”), and AQUA ILLINOIS, INC. a corporation duly organized and existing under the laws of the State of Illinois and a public utility within the meaning of Section 3-105 of the Public Utilities Act, 220 ILCS 5/1-101 et seq. (“Aqua”),

WITNESSETH:

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

WHEREAS, the Village of Oak Brook (“the Village”) is a Charter Customer of the Commission; and

WHEREAS, the Village, an Illinois municipality owns and operates a waterworks system that consists of: (i) a distribution system within the Village municipal boundaries and, a connected waterworks system that includes five discreet and non-contiguous zones located outside the municipal boundaries of the Village, such discreet and non-contiguous system zones being described in Exhibit A attached to this Contract; and

WHEREAS, Aqua and the Village are parties to a certain Asset Purchase Agreement dated April 27, 2021 (“APA”), whereby Aqua has proposed to purchase and subsequently own, operate and maintain the five discreet and non-contiguous zones located outside the municipal boundaries of the Village described in Exhibit A (the “Acquired System”) from the Village of Oak Brook pursuant and subject to the terms of the APA upon which such Acquired System shall become the

EXHIBIT 1

“Aqua-Oak Brook System” herein, as may be extended or improved from time to time to meet the potable water requirements of all residents and businesses served by the Aqua-Oak Brook System; and

WHEREAS, the closing of the APA is contingent upon approval and execution of this Water Purchase and Sale Contract, amongst other obligations between Aqua and the Village as stated in the APA; and

WHEREAS, Aqua has applied for from the State of Illinois Department of Natural Resources, Office of Water Resources (IDNR), the successor to the responsibilities of the State of Illinois Department of Transportation, Division of Water Resources, a water allocation for the Aqua-Oak Brook System; and

WHEREAS, the Commission has entered into a Lake Michigan Water Contract to purchase Lake Michigan water sufficient to meet the water supply needs of the Commission and its customers (the "Lake Michigan Water Contract"); and

WHEREAS, the Commission has issued and sold and further proposes to issue and sell Bonds (as defined in Section 2 below) from time to time during the term of this Contract in sufficient amounts for the payment of the costs of its project of acquiring, designing, constructing, and maintaining its Waterworks System (as defined in Section 2 below); and

WHEREAS, such Bonds have been and will be issued from time to time by the Commission pursuant to Bond Ordinances (as defined in Section 2 below) adopted by the Commission; and

WHEREAS, Aqua recognizes that the Commission will incur certain additional costs in adding the Aqua-Oak Brook System to the Waterworks System; and

WHEREAS, by the execution of this Contract, Aqua is surrendering none of its rights to the ownership and operation of the Aqua-Oak Brook System, except as expressly provided for, and only to the limited extent so provided for, in this Contract, and the Commission is surrendering

O-4-22
EXHIBIT 1

none of its rights to the ownership and operation of its Waterworks System, but each expressly asserts its continued right to operate such systems; and

WHEREAS, Aqua recognizes that the Commission may use this Contract as the basis, in part, for obtaining loans from time to time to be evidenced by the issuance of its Bonds; and for payment of the principal of and the premium, if any, and interest on such Bonds; and as the means for the payment of its maintenance and operating expenses; and for such purposes as may be authorized by applicable statutes or required in any Bond Ordinance adopted by the Commission authorizing issuance of Bonds; and

WHEREAS, Aqua recognizes that the Commission may in the future enter into contracts with other customers; and

WHEREAS, Aqua recognizes that the Commission has represented and covenanted that its Bonds are not and will not become an issue of private activity bonds and that Aqua may therefore be restricted in its use of the Waterworks System; and

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

SECTION 1. PREAMBLES.

The preambles hereto are hereby incorporated herein by this reference and are made fully a part of this Contract.

SECTION 2. DEFINITIONS.

The following words and phrases shall have the following meanings when used in this Contract.

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

B. "Aggregate Costs" means Operation and Maintenance Costs, Fixed Costs, and Underconsumption Costs, collectively, as defined herein.

O-4-22
EXHIBIT 1

C. “APA” means that certain Asset Purchase Agreement dated April 27, 2021, between Aqua and the Village whereby Aqua is to purchase and subsequently own the Village Divested Systems from the Village of Oak Brook pursuant and subject to the terms of the APA upon which such Village Divested Systems shall become the “Aqua-Oak Brook System” herein.

D. “Aqua” means Aqua Illinois, Inc., an Illinois corporation

E. “Aqua-Oak Brook System” means the five zone Systems of the Aqua System described in Aqua’s application to the Illinois Commerce Commission Certificates of Public Convenience and Necessity listed in Exhibit C attached to this Contract as well as any extensions or improvements of those systems as may be approved by additional or amended Illinois Commerce Commission Certificates of Public Convenience and Necessity; provided, however, that no such System shall be considered part of the “Aqua-Oak Brook System” for purposes of this Contract unless and until, and then only to the extent that, it has been approved for delivery of Lake Water by the Illinois Commerce Commission.

F. “Aqua-Oak Brook System Connection Facilities” means those portions of the Aqua-Oak Brook System, lying downstream from the Commission Connection Facilities.

G. “Average Charter Customer Rate Per 1,000 Gallons” means Total Charter Customer Revenue divided by Total Charter Customer Use.

H. “Bond Ordinances” means all of the Commission's ordinances and resolutions under which the Commission has or will authorize the issuance of, or issue, Bonds.

I. “Bonds” means Revenue Bonds and Other Bonds.

J. “Capital Cost Recovery Charge” means the amount necessary, pursuant to Section 0.02 of the Water Commission Act of 1985 (as added by Public Act 093-0226) and Commission Resolution No. R-79-04, entitled “A Resolution Expressing the Policy of the DuPage Water Commission Regarding the New Subsequent Customer Pricing Methodology,” to recover Aqua’s proportionate share of Original Capital Costs less Rebates, where Aqua’s proportionate share of

EXHIBIT 1

Original Capital Costs less Rebates is that proportion of Original Capital Costs less Rebates which Aqua's Full Water Requirements for a one calendar year period encompassing 2021-2022 as reported by the Village for the Aqua Zones bears to the sum of the Full Water Requirements or Minimum Take or Pay Requirements (as defined in the Charter Customer Contract), as applicable, of all of the Commission's Contract Customers for such two years which the parties agree shall be \$2,360,107.00 based on the method of calculating such amount illustrated in Exhibit F attached to this Contract.

K. "Charter Customer Contract" means the Water Purchase and Sale Contract between the Commission and the Charter Customers dated as of June 11, 1986.

L. "Charter Customer Facilities" means all of the feeder mains, metering stations, and pressure adjusting stations constructed as of May 1, 1992, solely for the purpose of initially connecting the Charter Customers to the Waterworks System.

M. "Charter Customers" means the units of local government (not including the Commission) that are parties to the Charter Customer Contract, excluding, however, any such unit of local government whose rights and obligations under such Contract have been terminated.

N. "Closing" or "Closing of the APA" means closing of the APA whereby Aqua is owner of the Aqua-Oak Brook System.

O. "Commission" means the DuPage Water Commission, DuPage, Cook, and Will Counties, State of Illinois.

P. "Commission Connection Facilities" means the portions of the Waterworks System constructed by the Commission to initially connect the Aqua-Oak Brook Zones to the existing Waterworks System, which facilities are depicted in Exhibit B-2 to this Contract, as such facilities may be relocated, replaced, extended, or improved from time to time. The Commission Connection Facilities include, among other items, a metering station, including pipelines and equipment appurtenant thereto, and SCADA System facilities attributable to the Aqua-Oak Brook System, including equipment appurtenant thereto

EXHIBIT 1

Q. "Connection Facilities" means the Aqua-Oak Brook System Connection Facilities and the Commission Connection Facilities.

R. "Connection Facilities Cost" means the full actual cost incurred by the Commission in connection with (i) the design, bidding, contracting, managing, and actual construction, installation, removal, relocation, replacement, extension, or improvement of the Connection Facilities, including without limitation equipment required for the operation of the Connection Facilities and all administrative, financing, supervisory, inspection, engineering, surveying, and legal fees, costs, and expenses associated therewith; (ii) the acquisition and divestment of lands, easements, and rights of way over land and waters necessary for the construction, installation, removal, relocation, replacement, extension, and improvement of the Connection Facilities, and all administrative, title, surveying, and legal fees, costs, and expenses associated therewith; and (iii) the review and processing of plans and agreements for the construction, installation, removal, relocation, replacement, extension, and improvement of the Connection Facilities and in connection with the negotiation, preparation, consideration, and review of this Contract, including without limitation all legal, engineering, consulting, and administrative fees, costs, and expenses associated therewith.

S. "Contract" means this Water Purchase and Sale Contract.

T. "Contract Customers" means the Charter Customers, Aqua, and every other entity with whom the Commission has entered into, or may in the future enter into, a contract or agreement for the sale by the Commission of Lake Water to that entity, except only contracts and agreements providing for the delivery of Lake Water during times of emergency only.

U. "Days" means calendar days.

V. "Earned Interest Rate" means, with respect to each Interest Period under this Contract, the highest monthly average yield to maturity interest rate earned by the Commission (total funds) as reported monthly on the Commission's Schedule of Investments for the immediate preceding fiscal year (May 1 – April 30) as determined by the Commission, which determination

EXHIBIT 1

shall be conclusive and binding upon Aqua absent manifest error, but the effective date of any change in the Earned Interest Rate shall, for purposes hereof, be the first day of May following such Determination Date.

W. "Emergency Interconnections" means, as it applies to the Aqua-Oak Brook System, any existing or anticipated distribution system emergency use only interconnections between the Aqua-Oak Brook System and the Village or any other Contract Customer.

X. "Fiscal Year" means the fiscal year of the Commission.

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

Z. "Full Water Requirements" means, as it applies to the Aqua-Oak Brook System, the amount of water necessary from time to time to meet the potable water requirements of all then current customers served by the Aqua-Oak Brook System, and, as it applies to other Contract Customers of the Commission, such Contract Customers' full water requirements as defined in their respective contracts with the Commission.

AA. "Interim Water Deliveries" means, as it applies to the Aqua-Oak Brook System, the temporary amount of water necessary from time to time to meet the potable water requirements of all then current customers served by the Aqua-Oak Brook System directly from the Village through residential or commercial account meters or through other metered connections until such time as the Commission Connection Facilities become operational.

BB. "Lake Water" means potable, filtered water drawn from Lake Michigan.

EXHIBIT 1

CC. "Lake Michigan Water Contract" means the Water Supply Contract, dated March 19, 1984, between the Commission and the City of Chicago, Illinois, as amended or supplemented from time to time, or any other future supplier of Lake Michigan Water.

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

EE. "Operation and Maintenance Costs" means amounts payable by the Commission under the Lake Michigan Water Contract, except Underconsumption Costs, and all expenses incurred in the administration, operation, and maintenance of the Waterworks System and the accumulation of reserves related to payment of said costs. Operation and Maintenance Costs in any month shall be at least equal to the amount required to be deposited by the Commission in that month into the operation and maintenance funds or accounts created under all Revenue Bond Ordinances.

FF. "Original Revenue Bonds" means the Series 1987 Revenue Bonds, originally issued in the amount of \$200,000,000 pursuant to Ordinance No. 0-1-87 adopted January 15, 1987, and the Series 1993 Water Refunding Revenue Bonds, originally issued in the amount of \$182,755,000 pursuant to Ordinance No. 0-8-93 adopted April 8, 1993, and any other Revenue Bonds that may in the future be issued to refund or refinance all or any portion of the indebtedness represented by said Series 1987 and 1993 Revenue Bonds.

GG. "Other Bond Ordinances" means all of the Commissions ordinances and resolutions under which the Commission has or will authorize the issuance of, or issue, Other Bonds.

HH. "Other Bonds" means all of the Commission's debt obligations that are not Revenue Bonds, whether in the form of bonds, notes, or other evidences of indebtedness, in whatever original principal amount, together with any such additional non-revenue obligations authorized

EXHIBIT 1

by statute to be issued by the Commission from time to time and refunding obligations issued to refund other such obligations.

II. "Points of Delivery" means the points at which the Lake Water delivered to Aqua pursuant to this Contract leaves the Commission's Connection Facilities and enters the Aqua-Oak Brook System. The Points of Delivery shall be a point in the water main connecting the Commission's metering station to Aqua-Oak Brook System.

JJ. "Prime Rate" means the base corporate rate of interest then most recently announced by the largest commercial bank, measured in terms of total assets, located and doing banking business in the State of Illinois, which rate may or may not be said bank's lowest rate of interest charged by said bank for extensions of credit to debtors. The effective date of any change in the Prime Rate shall, for purposes hereof, be the effective date stated in the public announcement of said bank.

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

LL. "Revenue Bond Ordinances" means all of the Commissions ordinances and resolutions under which the Commission has or will authorize the issuance of, or issue, Revenue Bonds.

MM. "Revenue Bonds" means all of the Commission's debt obligations, including the Original Revenue Bonds, that are payable from the revenues of the Waterworks System, whether in the form of bonds, notes, or other evidences of indebtedness, in whatever original principal amount, together with any such additional revenue obligations authorized by statute to be issued by the Commission from time to time and refunding obligations issued to refund other such obligations.

NN. "SCADA System" means the Supervisory Control and Data Acquisition System of the Commission that provides an integrated control, communication, and security system for the

O-4-22
EXHIBIT 1

Waterworks System, including data processing, management, transfer, and exchange; central operation; system control and monitoring; and operator-machine interfacing.

OO. "Total Charter Customer Revenue" means all Fixed Costs payments and all Operation and Maintenance Costs payments, as those terms are defined in the Charter Customer Contract, made by the Charter Customers pursuant to the Charter Customer Contract for the Fiscal Year immediately prior to 2022.

PP. "Total Charter Customer Use" means the total amount of water, stated in thousands of gallons, actually delivered through the Waterworks System to the Charter Customers or the Full Water Requirements, as that term is defined in the Charter Customer Contract, of all Charter Customers, whichever is greater, for the Fiscal Year immediately prior to 2022.

QQ. "Trustee" means a trustee provided in a Bond Ordinance.

RR. "Underconsumer" means, for any given year, a Contract Customer of the Commission that takes less Lake Water in such year than such Contract Customer's Water Allocation times 365 times the Underconsumption Ratio for such year.

SS. "Underconsumption" means the amount by which the amount of Lake Water actually taken by a Contract Customer of the Commission is less than the Underconsumption Ratio times such Contract Customer's Water Allocation times 365.

TT. "Underconsumption Costs" means any amount that the Commission is obligated to pay under the Lake Michigan Water Contract solely by reason of failure to accept delivery of the minimum quantity of Lake Water that the Commission is obligated to purchase under the Lake Michigan Water Contract.

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

EXHIBIT 1

VV. "Unit System" means any one of the five waterworks systems zones comprising the Aqua-Oak Brook System, or combined waterworks systems if any such system is combined for financing and accounting purposes, composing the Aqua-Oak Brook System. The Unit Systems are shown on Exhibit C attached to this Contract.

WW. "Unit System Contracts" means this Contract and all similar contracts entered into by and between the Commission and Aqua for the purchase and sale of Lake Water to serve any Unit System.

XX. "Village of Oak Brook" or "Village" an Illinois municipality and a Charter Contract Customer of the Commission.

YY. "Water Allocation" means, as it applies to other Contract Customers of the Commission, such Contract Customers' water allocation as defined in their respective contracts with the Commission, and, as it applies to Aqua for the Aqua-Oak Brook System, the sum of Aqua's allocations and allowable excesses from time to time of Lake Water for the Aqua-Oak Brook System pursuant to the Level of Lake Michigan Act, as amended from time to time (See the State of Illinois Department of Transportation, Division of Water Resources Decision on 1989 Allocation Review, Order No. LMO 89-2 and subsequent orders of the State of Illinois Department of Transportation, Division of Water Resources, or the successor to its responsibilities, the State of Illinois Department of Natural Resources, Office of Water Resources); and such other amounts of Lake Water as Aqua may lawfully take for the Aqua-Oak Brook System. At any time when the Full Water Requirements of the Aqua-Oak Brook System shall exceed the Water Allocation for the Aqua-Oak Brook System, then "Water Allocation" shall mean the Full Water Requirements of the Aqua-Oak Brook System for all purposes of this Contract.

ZZ. "Waterworks System" means all the Commission's facilities, including land; easements; rights-of-way over lands and waters; pumping facilities, storage facilities, metering stations, and other facilities; mains; and pipelines acquired and used for the purposes of providing and transmitting Lake Water to the Commission's customers. The Aqua-Oak Brook System Connection Facilities are not part of the Waterworks System.

O-4-22
EXHIBIT 1

SECTION 3. WATER SUPPLY.

A. Agreement to Sell and Purchase. Subject to Section 17 and all other provisions of this Contract, the Commission shall sell to Aqua and Aqua shall purchase from the Commission an amount of Lake Water necessary from time to time to serve the Aqua-Oak Brook System 's Full Water Requirements. The Commission's obligation to Aqua to deliver Lake Water hereunder shall be limited, however, to:

1. A maximum annual amount equal to the Aqua-Oak Brook System's then current Water Allocation times 365; and
2. A maximum rate of Lake Water to the Aqua-Oak Brook System in any one hour equal to 1.7 times the Aqua-Oak brook System's then current Water Allocation divided by 24.

B. Beginning of Obligations to Deliver and Receive Lake Water. The Commission shall be obligated to deliver Lake Water to the Aqua-Oak Brook System and Aqua shall be obligated to receive at the Aqua-Oak Brook System Lake Water delivered by the Commission immediately after completion of construction of the Connection Facilities and the water storage capacity required pursuant to Subsection 4C of this Contract; provided however that Aqua shall have the right to receive Lake Water pursuant to this Contract prior to the completion of construction of the aforesaid water storage capacity if (i) Aqua has entered into , and the Commission has approved, a valid and binding contract for the construction of such required water storage capacity; and (ii) actual construction of such required water storage capacity pursuant to such contract has begun and is proceeding in the regular course to completion.

C. Closing Contingency. This Agreement is contingent upon the Closing of the APA, and Aqua taking ownership of the Acquired System and Aqua's receipt of its Water Allocation.

D. Limits on Supply. The Commission shall use its best efforts to furnish Lake Water to Aqua as hereinabove provided, but Aqua acknowledges and agrees that the Commission's obligation hereunder is limited by:

EXHIBIT 1

1. The amount of Lake Water from time to time available to the Commission; and
2. Provisions in contracts between the Commission and its Charter Customers and other customers related to curtailment and other limits on supply of Lake Water; and
3. The capacity of the Waterworks System; and
4. Ordinary transmission loss, including standard metering error, between the Commission's source of supply and the Point of Delivery to the Aqua-Oak Brook System; and
5. The other provisions of this Contract, including but not limited to Section 17 hereof.

E. Additional Subsequent Customers. Aqua acknowledges that the Commission may enter into contracts for the sale by the Commission of Lake Water to Contract Customers other than the Charter Customers and Aqua. In the event that the Commission is required to limit its delivery of Lake Water to certain Contract Customers pursuant to the provisions of this Contract or any similar provision of any other water purchase or sale contract, then such curtailment shall be accomplished first by limiting the supply of Lake Water to the last such Contract Customer to have entered into a contract with the Commission, as determined by the date of execution of such contract, and then by limiting the supply of Lake Water to the penultimate such Contract Customer, and so on until the provisions of said Section 17 or any similar provision of any other water purchase or sale contract are fulfilled. It is the intent of this Subsection 3E that the longest-term Contract Customers of the Commission shall be the last to be curtailed under the circumstances stated in this Subsection 3E, in order of seniority of such Contract Customers' contracts. For purposes of this Contract, the Commission and Aqua acknowledge that Aqua, in its role as owner and operator of the Aqua-Oak Brook System is the seventh (7th) non-Charter Customer with whom the Commission has entered into a water purchase and sale contract.

EXHIBIT 1

F. Emergency or Maintenance Turn-Off. The Commission undertakes to use reasonable care and diligence to provide a constant supply of Lake Water as herein provided for, but reserves the right at any time to turn off the flow of Lake Water in its mains for emergency and maintenance purposes. The Commission shall give notice not less than 48 hours in advance of any turn-off for maintenance purposes and it shall give such notice as is reasonable under the particular circumstances of any turn-off for emergency purposes.

G. Curtailement; Emergency Use of Other Sources. If it becomes necessary for the Commission to limit its delivery of Lake Water to its customers for any reason, Aqua shall be entitled, to the extent possible, to receive during such period of curtailement a pro rata share of available Lake Water as determined by the ratio of the Aqua-Oak Brook System's total Lake Water use during the prior Fiscal Year to the sum of Lake Water use during the prior Fiscal Year of all of the Commission's customers entitled to Lake Water during such period of curtailement. Prior to the Commission's delivery of Lake Water to the Aqua-Oak Brook System for one Fiscal Year, Aqua shall be entitled, to the extent possible, to receive during such period of curtailement a pro rata share of available Lake Water as determined by the ratio of the Aqua-Oak Brook System's Full Water Requirements during the prior Fiscal Year to the sum of (i) Lake Water use during the prior Fiscal Year of all of the Commission's other customers entitled to Lake Water during such period of curtailement and (ii) the Aqua-Oak Brook System's Full Water Requirements during the prior Fiscal Year. Aqua, in cases of emergency or when the Commission for whatever reason is unable to meet the Aqua-Oak Brook System's Full Water Requirements, may, subject to the terms, conditions, and limitations set forth in Subsection 4D of this Contract, serve its customers from any source; provided, however, that Aqua shall continue to pay all amounts due to the Commission hereunder during such period as if the Aqua-Oak Brook System were receiving its Full Water Requirements from the Commission.

H. Water Quality. The Commission shall supply the Aqua-Oak Brook System with Lake Water of a quality commensurate to that furnished to the Commission's other Contract Customers, and meeting the requirements of any federal, State of Illinois, or local agency as shall have jurisdiction from time to time for the operation of public water supplies such as the

EXHIBIT 1

Waterworks System. The Commission bears no responsibility for the contamination of Lake Water or deterioration of water quality occurring beyond the Points of Delivery to the Aqua-Oak Brook System. Aqua, to the fullest extent permitted by law, shall indemnify and defend the Commission from any damages, claims, causes of action or personal injuries to Aqua or third parties caused by any contamination or deterioration of water quality occurring beyond the Points of Delivery to the Aqua-Oak Brook System

SECTION 4. DELIVERY; STORAGE; DISTRIBUTION; CONSERVATION.

A. Aqua-Oak Brook System Connection Facilities. Aqua shall receive its supply of Lake Water at the Aqua-Oak Brook System Points of Delivery at pressures that will vary from time to time, but will not exceed two total delivery points from the Waterworks System for all of the areas within the Aqua-Oak Brook System . Aqua, at its own expense and pursuant to the schedule established in Section 10 of this Contract, shall site, design, construct, operate, maintain, and when necessary, replace the Aqua-Oak Brook System Connection Facilities, including a pressure adjusting station immediately downstream from the Point of Delivery. Initial design and construction plans and specifications for the Aqua-Oak Brook System Connection Facilities, and any future modifications thereof, shall be submitted in advance of construction or modification to the Commission for review and approval, which approval shall not be unreasonably withheld.

B. Alternate Delivery Through Contract Customer Facilities. The Commission and Aqua acknowledge that Aqua may negotiate, within two years of the date of this Agreement or longer if agreed in writing by the Commission, with one or more Contract Customers for delivery of Lake Water purchased from the Commission through facilities owned by such Contract Customer to the Aqua-Oak Brook System ("Alternate Delivery"). Aqua shall not enter into any agreement for Alternate Delivery, and no such agreement shall affect the terms of this Contract, except after such agreement has been approved in writing by the Commission.

Such Alternate Delivery of Lake Water, should it become feasible for Aqua through its negotiations with Contract Customers, may affect Aqua's obligations under this Contract to provide a site for the metering station pursuant to Subsection 5A of this Contract, to provide a

O-4-22
EXHIBIT 1

pressure adjusting station pursuant to Subsection 4A above, and to provide storage capacity pursuant to the terms of Subsection 4C below, among other possible effects. In addition, such Alternate Delivery of Lake Water may affect certain cost provisions under Section 7 of this Contract. The Commission and Aqua agree that, if Aqua reaches an agreement with a Contract Customer in a form acceptable to and approved by the Commission for Alternate Delivery of Lake Water consistent with Commission Resolution No. R-13-90, entitled "A Resolution Expressing the Policy of the DuPage Water Commission Regarding Subsequent Customers," as clarified by Commission Resolution No. R-29-95, entitled "A Resolution Clarifying Resolution No. R-13-90, being "A Resolution Expressing the Policy of the DuPage Water Commission Regarding Subsequent Customers," as it may, from time to time, be amended ("Resolution No. R-13-90"), then the Commission and Aqua, by separate written contract, which may include amendments to this Contract, shall establish mutually agreeable terms between them for such Alternate Delivery of Lake Water.

C. Interim Water Deliveries. Until such time as the Commission Connection Facilities become operational, via direct connection to the Waterworks System (the "Direct Connection Facilities") or any wheeling arrangement with another Contract Customer, Interim Water Deliveries shall be treated as water purchased by Aqua from the Village pursuant to that separate Interim Delivery Agreement Among the Village of Oak Brook, Aqua Illinois, and the Du Page Water Commission which shall serve as an Alternate Delivery on an interim basis, provided however that unless otherwise agreed in writing by the Commission, Aqua shall within three (3) years of the date of this Agreement have in place Direct Connection Facilities pursuant to Subsection 4A or a permanent arrangement for Alternate Delivery pursuant to Subsection 4B. Notwithstanding any requirement of the Subsequent Customer Contract to the contrary, the Commission shall bear no responsibility for the contamination of such water or deterioration of water quality occurring beyond the Commission's point of delivery to the Village Unit System, and title to all such water supplied by the Commission shall remain in the Commission to the point of delivery to the Village Unit System and thereupon shall pass to the Village and/or Aqua.

1. Aqua does hereby acknowledge and agree that the Commission shall not

EXHIBIT 1

be liable to Aqua, and Aqua does hereby release and agrees to indemnify and hold harmless the Commission, from any damages occasioned by or in any way related to any interruption of, limitation on, or delay in, the delivery of water to Aqua that occurs after the water reaches the point of delivery to the Village Unit System.

D. Construction and Operation of Emergency Interconnections. Aqua shall submit to the Commission, for its review and approval, 60 days prior to operation or construction of any planned Emergency Interconnections, a report detailing the exact location of the Emergency Interconnections, the manner in which the Emergency Interconnections will be operated and maintained, and the terms of any written or oral agreement for the operation and maintenance of the Emergency Interconnections. Such report shall include as-built drawings of the Emergency Interconnections and exact duplicates of any written agreement for the operation and maintenance of the Emergency Interconnections. The Emergency Interconnections shall not be operated unless and until the Commission shall have approved such report. No approval of such report shall be withheld unless the Emergency Interconnections, or any agreement for the operation and maintenance of the Emergency Interconnections, violate the Charter Customer Contract, the Subsequent Customer Contract, the current or then existing contracts for the providing of Lake Michigan Water (the "Lake Michigan Water Contract"), or applicable laws or regulations, or pose a threat to the Commission or the Waterworks System.

1. The Emergency Interconnections shall be utilized only under emergency conditions unless otherwise approved, in writing, by the Commission. An emergency condition shall be defined to mean the inability to provide average day flow demands to regular, non-emergency supply customers during a limited period of time due to conditions beyond the control of the party requesting Lake Water. An emergency condition shall not mean any limitation imposed by the Commission on the supply of Lake Water to Aqua specifically related to Aqua pursuant to the Charter Customer Contract or the Subsequent Customer Contract, as the case may be, and the Emergency Interconnections shall not be utilized to circumvent the provisions of any agreement approved by the Commission for the Alternate Delivery of Lake Water pursuant to

O-4-22
EXHIBIT 1

Subsection 4B of the Subsequent Customer Contract.

2. The Emergency Interconnections shall be operated and maintained in such a manner as at no time to place or threaten to place the Commission or the Waterworks System in jeopardy of failing to meet the terms of the Charter Customer Contract, the Subsequent Customer Contract, the Lake Michigan Water Contract, or the regulations of any agency or governmental authority having jurisdiction over the operation of a public water supply.

3. The party experiencing the emergency condition shall give telephonic notice to the Commission and to the other party of the emergency condition, the expected duration of the emergency condition, and the amount of Lake Water needed, prior to the operation of the Emergency Interconnections. The Emergency Interconnections shall not be operated unless and until the party experiencing the emergency condition shall have given said notice to the Commission.

4. The party receiving Lake Water through the Emergency Interconnections shall provide daily telephonic notice to the Commission and the party delivering Lake Water for as long as the emergency deliveries continue and shall provide telephonic notice to the Commission before final shut-off of the emergency flow of Lake Water through the Emergency Interconnections for each such emergency condition.

5. Aqua shall keep a record of the amount of Lake Water delivered through the Emergency Interconnections, a copy of which shall be provided to the Commission within five days following termination of the use of the Emergency Interconnections for each such emergency condition and, in any case, every five days where the Emergency Interconnections is in continuous operation for more than five days.

6. The amount of Lake Water delivered to Aqua through the Emergency Interconnections, as the case may be, shall be paid to the Commission directly by the party receiving Lake Water through the Emergency Interconnections at the rates applicable

EXHIBIT 1

pursuant to, and in accordance with, that party's water purchase and sale contract with the Commission. In case of service curtailment, the Lake Water Supplier's flow of water through the Emergency Interconnections shall be considered as a portion of the Lake Water Supplier's allocation from the Commission. In case of service curtailment, the Aqua's flow of water through the Emergency Interconnections shall be considered as a portion of Aqua's allocation from the Commission.

7. The Commission shall have the right to inspect the Emergency Interconnections, and its operation and maintenance at any time upon one hour notice. The Commission shall have the right to install seals or such other devices as the Commission, in its sole and absolute discretion, determines are necessary to determine the operation of the Emergency Interconnections, and all equipment required to be installed to allow the installation of the seals or such other devices shall be installed at Aqua's sole cost and expense.

8. The Commission shall bear no responsibility for, and Aqua shall and does hereby release the Commission from and agrees, to the fullest extent permitted by law, to indemnify and hold the Commission harmless from, any claims, damages, liabilities, and litigation that may be occasioned by, connected with, or in any way related to the construction, operation, and maintenance of the Emergency Interconnections.

9. The operation and maintenance of the Emergency Interconnections shall comply in all other respects with the Water Commission Act of 1985, the Charter Customer Contract, the Subsequent Customer Contract, the Lake Michigan Water Contract, and Commission Resolution No. R-13-90, entitled "A Resolution Expressing the Policy of the DuPage Water Commission Regarding Subsequent Customers," as clarified by Commission Resolution No. R-29-95, entitled "A Resolution Clarifying Resolution No. R-13-90, being A Resolution Expressing the Policy of the DuPage Water Commission Regarding Subsequent Customers," and the requirements of the Commission thereunder.

10. Notwithstanding anything to the contrary contained in any written or oral

EXHIBIT 1

agreement for the operation and maintenance of the Emergency Interconnections, the Emergency Interconnections shall be operated and maintained only in accordance with this Subsection 4D and such additional or other terms, conditions, and limitations as the Commission shall impose pursuant to any policy established by the Commission with respect to emergency interconnections. No such agreement shall be amended, modified, or otherwise changed except upon the prior written approval of the Commission.

11. The Commission reserves the right to order all use of the Emergency Interconnections to be discontinued, and Aqua shall and does hereby agree to discontinue such use, at any time the terms, conditions, and limitations of this Subsection 4D and any such additional or other terms, conditions and limitations imposed by the Commission pursuant to any policy established by the Commission with respect to emergency interconnections are not satisfied.

E. Storage. Prior to establishing water service from the Commission's Connection Facilities, Aqua shall provide or cause to be provided sufficient storage capacity within the Aqua-Oak Brook System to store not less than two times the annual average daily water demand of each of the non-contiguous zones of the Aqua-Oak Brook System; provided, however, that said requirement shall be reduced by (i) an amount equal to the storage capacity maintained by the Commission in its Waterworks System multiplied by a fraction, the numerator of which is the annual average daily water demand of the Aqua-Oak Brook System zone and the denominator of which is the total annual average daily water demands of all Contract Customers. The calculation of said water storage capacity requirement for the Aqua-Oak Brook System zone is provided in Exhibit D attached to this Contract. In accordance with said requirement, Aqua, at its own expense and pursuant to the schedule established in Section 10 of this Contract, shall construct for each of the non-contiguous Aqua-Oak Brook System zones at least the amount of water storage capacity shown on Exhibit D to this Contract as the "Minimum Additional Required Storage." Such water storage capacity shall be in addition to the amount of water storage capacity shown on Exhibit D to this Contract as the "Existing Storage" in the Aqua-Oak Brook System. Aqua shall properly maintain all such water storage capacity, in a good and serviceable condition. If at any time Aqua's

EXHIBIT 1

water storage capacity in any of the non-contiguous zones of the Aqua-Oak Brook System, including Commission storage capacity as provided above, falls below 1.9 times the annual average daily water demand of an Aqua-Oak Brook System zone, then Aqua, within 24 months after such level of deficiency is reached, shall construct additional water storage capacity within the Aqua-Oak Brook System zone of sufficient quantity to restore the total storage capacity of the Aqua-Oak Brook System zone, including its allowances Commission storage capacity as provided above, to not less than two times the annual average daily water demand of the Aqua-Oak Brook System zone.

F. Surges and Back-Flows. Aqua's operation of its pressure adjusting stations shall not cause surges or back-flows into the Waterworks System, nor shall the operation of any Aqua-Oak Brook System pressure adjusting stations cause the Waterworks System pressure to drop below 20 pounds per square inch. The Commission shall not be responsible for any damage to the Aqua-Oak Brook System, or the Aqua-Oak Brook System Connection Facilities caused by the design, operation, or maintenance of the Connection Facilities.

G. Maintenance of System; Water Quality; Prevention of Waste. Aqua shall operate the Aqua-Oak Brook System and the Aqua-Oak Brook System Connection Facilities in such a manner as at no time to place the Commission and the Waterworks System in jeopardy of failing to meet the regulations of any agency or governmental authority having jurisdiction over the Commission's operation of its Waterworks System. The Commission and Aqua shall notify each other immediately of all emergency and other conditions which may directly or indirectly affect the Waterworks System, the Aqua-Oak Brook System, the Connection Facilities or the quantity or quality of the Lake Water received pursuant to this Contract.

SECTION 5. MEASURING EQUIPMENT.

A. Metering Station and Instrumentation. The Commission shall, pursuant to the timetable established in Section 10 of this Contract, furnish and install at the Points of Delivery a metering station containing the necessary equipment and devices of a type meeting the standards of the American Water Works Association for measuring properly the quantity of Lake Water

EXHIBIT 1

delivered under this Contract, including all structures as the Commission shall deem necessary to house such equipment and devices. Such furnishing and installing of the metering station shall be done in substantial conformance with the preliminary plans therefor attached as Exhibit B-2 to this Contract, as such preliminary plans may be revised by mutual agreement of the Commission and Aqua. The Commission shall own, operate, maintain, and replace such metering station and all equipment and structures related thereto.

The metering stations shall be located at sites selected, acquired, owned, and provided to the Commission by Aqua, free and clear of all liens, claims, encumbrances, and restrictions unless otherwise approved by the Commission in writing. Such sites shall be subject to review and approval of the Commission. Aqua, without charge to the Commission and pursuant to the timetable established in Section 10 of this Contract, shall grant to the Commission all necessary and insured easements for such sites in a form similar to that attached as Exhibit E to this Contract and satisfactory to the Commission's attorneys. Aqua also shall grant to the Commission all necessary and insured easements for the appropriate location and installation of antennas and appurtenant facilities for the Commission's SCADA System attributable to the Aqua-Oak Brook System, free and clear of all liens, claims, encumbrances, and restrictions unless otherwise approved by the Commission in writing. Such SCADA System antennas or facilities shall be installed on such easements in a manner that will reduce so far as reasonably possible any interference with the telemetry of the Aqua System.

Aqua shall have access to the metering station for examination and inspection at reasonable times, but the reading for billing purposes, calibration, and adjustment of the equipment therein shall be done only by the employees or agents of the Commission.

B. Records. For the purpose of this Contract, the official record of readings of each meter at the metering station.

C. Calibration. At least once in each Fiscal Year, the Commission shall calibrate its meters measuring the Lake Water delivered to the Aqua-Oak Brook System if requested in writing by Aqua to do so, in the presence of a representative of Aqua, and the Commission and Aqua shall

EXHIBIT 1

jointly observe any adjustments that are made to the meters in case any adjustments shall be necessary. If any check meters have been installed, then such check meters shall be calibrated at least once in each Fiscal Year by Aqua in the presence of a representative of the Commission, and the Commission and Aqua shall jointly observe any adjustments that are made to the meters in case any adjustments shall be necessary.

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

E. Meter Malfunctions. If the Commission or Aqua at any time observes a variation between a meter and a check meter or any evidence of meter malfunction, such party shall promptly notify the other party, and the Commission and Aqua shall then cooperate to procure an immediate calibration test and such adjustment, replacement, or other work necessary to return such meter to accuracy. The party who discovers such variation or malfunction shall give the other party notice not less than 48 hours prior to the time of any test of any meter (which tests shall be conducted during normal working hours) so that the other party may conveniently have a representative present. If such representative is not present after the required notification at the time set in such notice, calibration and adjustment may proceed in the absence of said representative notwithstanding any other provision of this Subsection 5E. If the percentage of inaccuracy of any meter is found to be in excess of two percent, registration thereof shall be corrected by agreement of the Commission and Aqua based upon the best data available, for a period extending back to the time when such inaccuracy began if such time is ascertainable, or for

EXHIBIT 1

a period extending back one-half of the time elapsed since the last date of calibration (but in no event further back than a period of six months) if such time is not ascertainable.

If for any reason any meter is out of service or out of repair so that the amount of Lake Water delivered cannot be ascertained or computed from the reading thereof, then the Lake Water delivered during the period such meter is out of service or out of repair shall be deemed to be the registration of the check meter if one has been installed and is registering accurately, or, in the event that no check meter has been installed or the check meter is registering inaccurately, shall be estimated:

1. By correcting the error if the percentage of the error is ascertainable by calibration tests or mathematical calculations; or
2. If the error is not ascertainable by calibration tests or mathematical calculation, by estimating the quantity of delivery by considering deliveries during preceding periods under similar conditions when the meter or meters were registering accurately, adjusted for the addition of new customers to the Aqua-Oak Brook System.

F. Removal of Metering Station and SCADA System Facilities. Within 90 days after the termination of this Contract without renewal, the Commission, at its own expense and in its discretion, may remove the metering station, including equipment, and the SCADA System antennas and appurtenant facilities from the property of Aqua to which such termination without renewal applies and release the perpetual easements therein. If the Commission fails to remove such station, equipment, and facilities, as aforesaid, Aqua may take title to such station, equipment, and facilities.

SECTION 6. UNIT OF MEASUREMENT.

The unit of measurement for Lake Water delivered hereunder shall be gallons of water, U.S. Standard Liquid Measure, and all measuring devices shall be so calibrated unless the Commission

EXHIBIT 1

and Aqua otherwise agree. Should it become necessary or desirable to use other units of measurement, the basis of conversion shall be that 7.48 gallons is equivalent to one cubic foot.

SECTION 7. PRICES AND TERMS OF PAYMENT.

A. Operation and Maintenance Costs Payment. Aqua shall pay monthly to the Commission, at the time specified in Subsections 7I and 7L below, a share of the Commission's Operation and Maintenance Costs for each month, which shall be an amount equal to the then current price per 1,000 gallons for Operation and Maintenance Costs times the quantity of Lake Water divided by 1,000 delivered by the Waterworks System to the Aqua-Oak Brook System for such month. At any time no Lake Water is being supplied through the Waterworks System to any Contract Customer, Aqua's share of monthly Operation and Maintenance Costs for the Aqua-Oak Brook System shall be that proportion of those costs which the Aqua-Oak Brook System's Water Allocation bears to the total Water Allocations of all of the Commission's customers required to make Operation and Maintenance Costs payments during the same period.

B. Fixed Costs Payment. Subject to the single limitation on its obligation to pay Fixed Costs set forth in this Subsection 7B, Aqua shall pay monthly to the Commission, at the time specified in Subsections 7I and 7L below, one-twelfth of the Aqua-Oak Brook System's share of Fixed Costs for each Fiscal Year. For the purposes of this Contract, the Aqua-Oak Brook System's share of Fixed Costs for each Fiscal Year shall be that proportion of Fixed Costs which the Aqua-Oak Brook System's Full Water Requirements for the two preceding calendar years prior to such Fiscal Year bears to the sum of the Full Water Requirements or Minimum Take or Pay Requirements, as applicable, of all of the Commission's Contract Customers for such two preceding calendar years who are not relieved from Fixed Costs payments pursuant to the terms of their contracts. Prior to the Commission's delivery of Lake Water to the Aqua-Oak Brook System for two calendar years, the Aqua-Oak Brook System's share of Fixed Costs shall be that portion of Fixed Costs which the Aqua-Oak Brook System's Water Allocation bears to the total Water Allocations or the Full Water Requirements or Minimum Take or Pay Requirements, whichever is then applicable, of all of the Commission's Contract Customers who are not relieved from Fixed Costs payments pursuant to the terms of their contracts. Subject to the following single

EXHIBIT 1

limitation, Aqua's obligation to make all payments of Fixed Costs as required hereunder is unconditional and irrevocable, payable without setoff or counterclaim, and irrespective of whether Lake Water is ever furnished, made available, or delivered to the Aqua-Oak Brook System , or whether the Waterworks System is completed, operable, or operating, and notwithstanding suspension, interruption, interference, reduction, or curtailment of the supply of Lake Water. Aqua's obligation to pay Fixed Costs hereunder is subject to the single limitation that, if for any period of time, and only during such period of time, the Commission is in fact supplying the Full Water Requirements or Minimum Take or Pay Requirements, as applicable, to Contract Customers of the Commission, other than Aqua, whose Full Water Requirements and Minimum Take or Pay Requirements are more than 85 percent of the sum of the Full Water Requirements or Minimum Take or Pay Requirements, as applicable, of all Contract Customers of the Commission, and during such time the Commission is unable to supply any Lake Water to the Aqua-Oak Brook System , then Aqua shall have no obligation to pay Fixed Costs for the Aqua-Oak Brook System.

C. Connection Facilities Cost Payment. Aqua shall reimburse the Commission for the full actual cost incurred by the Commission in connection with: (i) the development of this Subsequent Customer Contract, including all legal and engineering expenses; (ii) the design, bidding, contracting, managing, and actual construction, installation, removal, relocation, replacement, extension, or improvement of the Commission Connection Facilities, including without limitation equipment required for the operation of the Commission Connection Facilities and all administrative, financing, supervisory, inspection, engineering, surveying, and legal fees, costs, and expenses associated therewith; (iii) the acquisition and divestment of lands, easements, and rights of way over lands and waters necessary for the construction, installation, removal, relocation, replacement, extension, or improvement of the Commission Connection Facilities, and all administrative, title, surveying, and legal fees, costs, and expenses associated therewith; and (iv) the review and processing of plans and agreements for the construction, installation, removal, relocation, replacement, extension, or improvement of the Commission Connection Facilities, including without limitation all legal, engineering, consulting, and administrative fees, costs, and any other expenses associated therewith or related thereto (the "Connection Facilities Cost").

EXHIBIT 1

Upon execution of this Subsequent Customer Agreement but prior to the Commission's commencement of design of the Commission Connection Facilities pursuant to this Agreement, Aqua shall deposit with the Commission cash (the "Cash Deposit") in the sum of: (i) 125% of all legal, engineering, consulting, and administrative costs and expenses incurred or accrued, at the time of execution of this Agreement, in connection with the review and processing plans for the Commission Connection Facilities and in connection with the negotiation, preparation, consideration, and review of this Agreement; (ii) 125% of the initial cost estimate; and (iii) 125% of the amount of the executed engineering and design agreements related to the design and inspection of the Commission Connection Facilities. Prior to the award of any construction contracts for the construction of the Commission Connection Facilities, the Cash Deposit shall be increased by an amount equal to 125% of the amount of the price or prices bid by the successful bidder for the Connection Facilities, as separately identified in the Schedule of Prices contained in the construction contract documents for the Commission Connection Facilities.

The Commission may draw upon the Cash Deposit, without the Aqua's consent, but may only employ the proceeds to pay for the Commission Connection Facilities Cost invoiced to, or otherwise documented by, the Commission and the Commission shall promptly notify Aqua of any such withdrawals. Aqua shall not be entitled to interest on the Cash Deposit.

If at any time the Commission reasonably determines that the funds remaining in the Cash Deposit are not, or may not be, sufficient to pay in full the remaining unpaid Connection Facilities Cost, then, within 10 days following a demand by the Commission, Aqua shall increase the amount of the Cash Deposit to an amount reasonably determined by the Commission to be sufficient to pay in full the remaining unpaid Connection Facilities Cost. Failure to so increase the amount of the Cash Deposit shall be grounds for the Commission to retain a possessory lien upon any remaining balance of the Cash Deposit (as damages security) and terminate this Agreement. Upon final payment of all amounts due under all executed contracts for the design, construction, and inspection of the Commission Connection Facilities, the Commission shall release to Aqua any amounts remaining in the Cash Deposit. Aqua's obligation to make the Connection Facilities Cost payments as required hereunder is unconditional and irrevocable, payable without setoff or

EXHIBIT 1

counterclaim, and irrespective of whether Lake Water is ever furnished, made available, or delivered to Aqua, or whether the Commission Connection Facilities are completed, operable, or operating, and notwithstanding suspension, interruption, interference, reduction, or curtailment of the supply of Lake Water.

If Aqua, within the time frame of Subsection 4B is able to negotiate a permanent Alternate Delivery Through Contract Customer Facilities Agreement approved by the Commission, Aqua shall propose an alternative costs estimate subject to the Commission's approval, and the Commission may provide an adjustment in the Cash Deposit in accordance with such estimates.

D. Capital Cost Recovery Charge Payment. After the effective date of this Agreement, Aqua shall pay monthly to the Commission, an amount calculated by amortizing the Capital Cost Recovery Charge, in equal monthly installments of principal and interest, at a rate per annum equal to the Earned Interest Rate determined for each Interest Period plus one percent, over the life of the Charter Customer Contract remaining as of the month in which Aqua first becomes obligated to make such payment; provided, however, that such monthly installment may be adjusted by the Commission, on May 1 of each year thereafter, to ensure amortization of the then-current amount of the Capital Cost Recovery Charge remaining unpaid, as of such May 1, over the life of the Charter Customer Contract then remaining, and to reflect any change in the Earned Interest Rate, as of such May 1. The method of calculating the Capital Cost Recovery Charge is illustrated in Exhibit F attached to this Contract. Aqua's obligation to make all Capital Cost Recovery Charge payments as required hereunder is unconditional and irrevocable, payable without setoff or counterclaim, and irrespective of whether Lake Water is ever furnished, made available, or delivered to Aqua, or whether the Waterworks System is completed, operable, or operating, and notwithstanding suspension, interruption, interference, reduction, or curtailment of the supply of Lake Water. However, the parties agree that if Aqua pays the Commission the entire cost of the Capital Cost Recovery Charge within 14 days of the execution of this Contract, then Aqua shall not be liable for the monthly Capital Cost Recovery Charge as provided in this Subsection 7D.

E. Underconsumption Costs Payment. If Aqua is an Underconsumer at the Aqua-Oak Brook System, then Aqua shall pay, at the time specified in Subsections 7I and 7L below, its share

EXHIBIT 1

of Underconsumption Costs as determined and assessed by the Commission after notification of such costs pursuant to current Lake Michigan Water Contract. In such event, Aqua's share of Underconsumption Costs for the Aqua-Oak Brook System for a year shall be equal to the ratio of its Underconsumption to the aggregate Underconsumption of all Underconsumers for such year.

F. Default Shares. Subject to the limitations of Section 17 of this Contract, if any of the Commission's Contract Customers shall default in any payment to the Commission, or any part of any payment, including default shares, Aqua agrees to pay to the Commission a share of the amount so in default, which share shall be in the same proportion as the Aqua-Oak Brook System's share of Aggregate Costs for the month prior to the month of the default bears to the sum of the shares of Aggregate Costs in that month of all of the Commission's Contract Customers not in default and obligated to make payments with respect to the amount so in default.

Subject to Subsection 7L below, Aqua's share of the amount so in default shall be due and payable 21 days after the Commission's written demand therefor. The demand shall include the Commission's calculations of the amount due by Aqua hereunder. If and when the defaulting Contract Customer makes a payment to the Commission of a defaulted amount or interest thereon for which Aqua made a payment to the Commission under this Subsection 7G, then the Commission will pay to Aqua its proportionate share of such amount, including such interest.

G. Bills and Due Date. Except with respect to the payment of default shares pursuant to Subsection 7F above, the Commission shall notify Aqua of the total amount due under this Contract for each month on or before the 10th day of the following month. Aqua's costs for each month shall be due and payable, and must be received at the offices of the Commission, on or before the 10th day of the month following the month of the Commission's notification or within 28 days after the date of notification, whichever is later.

H. Disputed Payments. If Aqua desires to dispute any payment, or part thereof, due or claimed to be due under this Contract, Aqua shall nevertheless pay the full amount of any such payment when due and include with such payment written notification to the Commission that charges are disputed, the grounds for dispute, and the amount in dispute. No adjustment or relief

O-4-22
EXHIBIT 1

on account of any disputed charges shall be made unless disputed charges are the subject of such notice within the time herein specified, or within a reasonable period from the time Aqua knew or should have known of the facts giving rise to the dispute.

Upon receipt of a notification of dispute, representatives of the Commission shall meet promptly with representatives of Aqua to resolve such dispute.

If the Commission and Aqua determine that all or a portion of the disputed payment should be refunded to Aqua, then such sum shall be refunded with interest thereon at the rate established in Subsection 7K below from the date such disputed payment was made.

I. Interest on Overdue Payments. If Aqua shall fail to make any payment required under this Contract or any other Unit System Contract on or before its due date, Aqua shall be in default, and interest on the amount of such payment shall accrue, and be compounded on a monthly basis, during the period of non-payment at the maximum legal rate payable, not to exceed the higher of:

1. the weighted average effective interest rate on all series of Bonds of the Commission any of which are then outstanding plus two percent; or
2. the Prime Rate plus five percent.

Such interest shall accrue from the date such payment becomes due until paid in full with interest as herein specified. If such payment is not made by Aqua within 30 days after the date such payment becomes due, then the Commission, at its option and in its discretion, may reduce or discontinue delivery of Lake Water to the Aqua-Oak Brook System and to the other Unit Systems until the amount due the Commission is paid in full with interest as herein specified. The Commission shall give notice to Aqua not less than 20 days prior to the event of its intention to reduce or discontinue delivery of Lake Water in accordance with this Subsection 7K and shall provide Aqua an opportunity for a hearing before the Commission prior to any reduction or discontinuance. If the Commission reduces or discontinues the delivery of Lake Water under such circumstances, Aqua shall nevertheless continue to be liable to pay all charges provided for herein

EXHIBIT 1

as if the Aqua-Oak Brook System were receiving its Full Water Requirements from the Commission. The rights specified in this Subsection 7K shall be in addition to all other rights and remedies available to the Commission under this Contract, at law, or in equity for breach of any of the provisions of this Contract.

J. Security Deposit. If Aqua is at any time in default on any payment due under this Contract or any other Unit System Contract and the default is not cured within 30 days after the due date of the defaulted payment, then the Commission, at its option and in its discretion, may require Aqua, as a further obligation under this Contract, to deposit in a separate account in the Commission's name a sum of money, as security for the payment of Aqua's obligations hereunder and under the other Unit System Contracts, of a reasonable amount determined by the Commission. Aqua's compliance with the Commission's demand for such a security deposit shall be a condition precedent to the curing of such Aqua's default and the restoration of the Lake Water service to the Aqua-Oak Brook System and the other Unit Systems, if such Lake Water service has been reduced or discontinued by reason of such default. The security deposit or any part thereof may be applied, at the Commission's option and in its discretion, to any subsequent default by Aqua in any payments due under this Contract or any other Unit System Contract. If so applied, Aqua shall provide funds immediately to restore the security deposit to the amount required by the Commission. At the earliest of the end of the term of this Contract, or a term of two years after the curing of the most recent default by Aqua, or such earlier time that the Commission at its option and in its discretion may determine, any security deposit shall be returned to Aqua if Aqua has performed all its obligations under this Contract and the other Unit System Contracts. Aqua shall not be entitled to receive any interest on any security deposit.

K. Enforcement of Provisions Hereof By Other Customers. Aqua acknowledges that its obligation to make payments pursuant to the terms of this Section 7 is of benefit to the Commission's Charter Customers. Accordingly, Aqua agrees that, in addition to the Commission, Bondholders, a Trustee, or other parties by law entitled to enforce the provisions of this Contract, any three or more of the Commission's Charter Customers acting together may enforce the

EXHIBIT 1

provisions of this Section 7, but only if the Commission has not acted to enforce such provisions within 90 days after any failure by Aqua to make a payment hereunder.

L. Beginning of Obligation to Pay. Notwithstanding any other provision of this Contract, the obligation to make any and all payments under this Contract, except only payments of Operation and Maintenance Costs pursuant to Subsection 7A above, Capital Cost Recovery Charge pursuant to Subsection 7D above and Cash Deposit in Subsection 7C above, shall begin on the Commission's first regular billing cycle after the earlier to occur of (i) the first delivery of Lake Water to the Aqua-Oak Brook System or any portion thereof (excluding any delivery by the Village pursuant to Subsection 4C) or (ii) 12 months following completion of construction of the Commission Connection Facilities, other than the SCADA System facilities, to the point where they are capable of serving their intended function or would be capable of serving their intended function except for the fact that the Aqua-Oak Brook System Connection Facilities are not complete. The obligation to make payments of Operation and Maintenance Costs pursuant to Subsection 7A above shall begin on the Commission's first regular billing cycle after the earlier to occur of (i) the first delivery of Lake Water to the Aqua-Oak Brook System or any portion thereof (excluding any delivery by the Village pursuant to Subsection 4C) or (ii) completion of construction of the Commission Connection Facilities, other than the SCADA System Facilities, to the point where they are capable of serving their intended function or would be capable of serving their intended function 'except for the fact that the Aqua-Oak Brook System Connection Facilities are not complete. At any time prior to the first delivery of Lake Water to the Aqua-Oak Brook System when Aqua is obligated to make payments pursuant to this Subsection 7L, such payments shall be based on the Full Water Requirements of the Aqua-Oak Brook System.

M. Provisions in Lieu of Water Allocation. At any time before the State of Illinois Department of Natural Resources, Office of Water Resources, first grants a Water Allocation to Aqua for the Aqua-Oak Brook System when reference to a Water Allocation is necessary to give meaning to any term of this Contract, the Water Allocation for the Aqua-Oak Brook System shall be deemed to be 0.510 million gallons per day. At any time after the State of Illinois Department of Natural Resources, Office of Water Resources, first grants a Water Allocation to Aqua for the

EXHIBIT 1

Aqua-Oak Brook System that no Water Allocation is in effect for the Aqua-Oak Brook System and reference to a Water Allocation is necessary to give meaning to any term of this Contract, the Water Allocation for the Aqua-Oak Brook System shall be deemed to be Aqua-Oak Brook System's Full Water Requirements for the then most recently completed calendar year divided by 365.

SECTION 8. SPECIAL CONDITIONS AND COVENANTS.

A. Construction of Commission Connection Facilities; No Delay Damages; Supply of Lake Water. The Commission will make a diligent effort to have the Commission Connection Facilities completed to the Point of Delivery so as to furnish Lake Water to the Aqua-Oak Brook System by the date specified in Subsection 10H of this Contract, but the Commission does not in any way guaranty delivery by such date.

Aqua acknowledges and agrees that the Commission shall not be liable to Aqua for any damages occasioned by or in any way related to delay in the delivery of Lake Water to the Aqua-Oak Brook System, and all payments from Aqua provided for under this Contract shall remain due and payable in accordance with the terms of this Contract notwithstanding any such delay.

After Lake Water is first tendered for delivery to the Aqua-Oak Brook System at the Point of Delivery, the Commission, subject to the other terms and conditions of this Contract, shall use its best efforts to continually hold itself ready, willing, and able to supply Lake Water to the Aqua-Oak Brook System at such Point of Delivery. The Commission also shall use its best efforts, consistent with its prior obligations and legal obligations to its Charter Customers and its other customers and consistent with the fair and equitable treatment of all of its Contract Customers, to supply the Aqua-Oak Brook System with such additional amounts of Lake Water as from time to time may be allocated to the Aqua-Oak Brook System over and above the Aqua-Oak Brook System's present Water Allocation; provided, however, that the Commission does not in any way guaranty a supply of such additional amounts.

EXHIBIT 1

- B. Lake Water Only; Costs. Except with the prior approval of Aqua, the Commission shall not deliver any water to the Aqua-Oak Brook System other than Lake Water. Costs for Lake Water charged to Aqua by the Commission pursuant to this Contract shall include only the costs set forth in Section 7 of this Contract.
- C. Title to Lake Water. Title to all Lake Water supplied hereunder shall remain in the Commission to the Point of Delivery and thereupon shall pass to Aqua.
- D. Emergency Supply. Subject to the terms, conditions, and limitations set forth in Subsection 4D above, Aqua may contract for a temporary supply of water in case of an emergency from any unit of local government or any other entity. Aqua shall notify the Commission and shall promptly provide the Commission with copies of all such contracts.
- E. Covenants to Be Set Out in Bond Ordinance. Aqua acknowledges the existence, and its understanding of the provisions, of certain Bond Ordinances pursuant to which the Commission has previously issued its Bonds. Aqua further acknowledges and agrees that said Bond Ordinances grant to Bondholders certain rights to enforce certain duties of the Commission and its customers, including those with respect to the making of rates and charges and the collection of revenues, and that such Bondholder rights may be included in any subsequent Bond Ordinances.
- F. Payments Hereunder an Operation Expense of Aqua System. Aqua agrees that, to the fullest extent permitted by law or contract, all payments to be made by Aqua pursuant to this Contract and the other Unit System Contracts shall constitute operating expenses of the Aqua System as to any and all revenue bonds of Aqua which are supported in whole or in part by a pledge of the revenues of the Unit Systems, with the effect that Aqua's obligation to make payments from its water revenues under this Contract and the other Unit System Contracts has priority over its obligation to make payments of the principal and of the premium, if any, and interest on any such bonds which are or will be supported in whole or in part by a pledge of any Unit System revenues. Aqua shall make all budgetary, emergency, and other provisions and appropriations necessary to provide for and authorize the prompt payment to the Commission of

EXHIBIT 1

all rates and charges under this Contract and the other Unit System Contracts. The obligations of Aqua under this Contract and the other Unit System Contracts are further payable from all other accounts of the Aqua System in which there are lawful available funds. In any revenue bond or indenture hereafter issued by Aqua, the priority of lien established pursuant to this Contract and the other Unit System Contracts shall be expressly provided and set forth in said bond ordinances or resolutions.

SECTION 9. ADDITIONAL AQUA COVENANTS.

A. Maintenance of Corporate Existence. Aqua agrees that during the term of this Contract it will maintain its corporate existence, it will continue to be a corporation in good standing in the State of Illinois, it will not dissolve or otherwise dispose of all or substantially all of its assets, and, unless Aqua shall be the surviving entity, it will not consolidate with or merge into any other legal entity or permit any other legal entity to consolidate with or merge into it; provided, however, that Aqua may consolidate with or merge into another legal entity, or permit one or more legal entities to consolidate with or merge into it, or sell or otherwise transfer to another legal entity all or substantially all of its assets as an entirety and thereafter dissolve, provided (1) that the surviving, resulting, or transferee legal entity, as the case may be, shall be a legal entity organized and existing under the laws of one of the states of the United States of America or the District of Columbia, shall be qualified to do business in the State of Illinois, shall have a consolidated net worth immediately subsequent to such acquisition, consolidation, or merger at least equal to that of Aqua immediately prior to such acquisition, consolidation, or merger, and shall assume in writing all of the obligations of Aqua under this Contract, in which event the Commission shall release Aqua, in writing, concurrently with and contingent upon such assumption, from all liability hereunder; (2) that such consolidation, merger, sale, or transfer will not affect the tax-exempt status of the interest on any debt of the Commission; and (3) that prior to such consolidation, merger, sale, or transfer the Commission shall be furnished certificates from the chief financial officer and the general counsel of Aqua that in the opinion of each such officer none of the covenants, agreements, or obligations contained in this Contract will be violated as a result of such consolidation, merger, sale, or transfer.

EXHIBIT 1

B. Maintenance and Operation of Aqua System. Aqua shall own and maintain the Unit Systems, the Aqua-Oak Brook System, and the Aqua-Oak Brook System Connection Facilities, and all improvements and extensions of said Systems, in good repair and working order, will operate said Systems efficiently, and will punctually perform all duties with respect to said Systems as may be required by this Contract, by the other Unit System Contracts, and by the Constitution and laws of the State of Illinois and all other applicable laws. In the event of any deterioration, injury, damage, or other loss to any of said Systems affecting Aqua's ability to deliver water to any of Aqua's customers, Aqua shall promptly restore said Unit System and its capacity to so deliver water.

C. Rate Covenant. Aqua shall take all necessary actions, including the filing and processing of all necessary and appropriate applications with the Illinois Commerce Commission, to establish, maintain, revise as necessary, and collect, to the extent approved by the Illinois Commerce Commission, rates and charges for customers of the Aqua System as shall be required from time to time to produce revenues at least sufficient:

1. To pay all amounts due under this Contract and the other Unit System Contracts and to pay all other costs of operation and maintenance of the Aqua-Oak Brook System and the other Unit Systems; and
2. To provide an adequate depreciation fund for the Aqua-Oak Brook System and the other Unit Systems.

If at any time the Illinois Commerce Commission shall refuse to approve or Aqua, for want of such approval or any other reason, shall not maintain such rates, then the Commission shall have the right to terminate this Contract and the other Unit System Contracts on 180 days written notice to Aqua. Upon delivery of such notice to Aqua by the Commission, all amounts to be paid by Aqua to the Commission under this Contract, including without limitation all amounts to be paid by Aqua over the life of this Contract pursuant to Subsections 7B, 7C, and 7D of this Contract,

O-4-22
EXHIBIT 1

and the similar provisions of the other Unit System Contracts, shall be immediately due and payable to the Commission.

D. Future Subordination of Obligations. Any ordinance, resolution, motion, or other action of Aqua which authorizes the issuance after the date of this Contract or any other Unit System Contract of any obligation of Aqua to be paid from the revenues of the Aqua System will expressly provide that revenues of said System may be used to pay principal of, and the premium, if any, and the interest on such obligations only to the extent that those revenues exceed the amounts required to pay the operation and maintenance expenses of said System including, expressly, all amounts payable from time to time under this Contract and the other Unit System Contracts.

E. General Covenant to Operate Properly. From time to time, Aqua shall take all steps reasonably necessary so that the Unit Systems and the Aqua System may at all times be operated properly and advantageously.

F. Accounting and Audit. Aqua shall, within 120 days after the close of each of its fiscal years occurring during the term of this Contract, provide to the Commission complete annual audited financial statements of Aqua, which may be on a consolidated basis, duly certified by Aqua's independent certified public accountants. Aqua also shall provide to the Commission a copy of Aqua's annual report to the Illinois Commerce Commission.

G. Maintain Ownership of Aqua System. Except as provided in Subsection 9H below and in Section 11 of this Contract, and subject to the proper exercise by a governmental authority of its powers of eminent domain including its power to acquire property in lieu of obtaining judgment in an eminent domain action, Aqua shall continue to own and possess the Aqua System and, within the exercise of reasonable business judgment and in a manner so as not to cause a default hereunder, shall dispose of property which is part of said System only to the extent that such property is no longer useful or profitable in the operations of said System.

EXHIBIT 1

H. Sale, Lease, Mortgage, or other Encumbrance of Aqua-Oak Brook System. Aqua may sell, lease, mortgage, or otherwise encumber the Aqua-Oak Brook System, in whole or in part, subject to the provisions of Section 11 of this Contract and to each of the following conditions:

1. No sale, lease, mortgage, or other encumbrance shall relieve Aqua from primary liability for any obligations imposed on it under this Contract, and, in the event of any such sale, lease, mortgage, or other encumbrance, Aqua shall continue to remain primarily liable for payment of all amounts specified or referred to in Section 7 of this Contract and for performance and observance of the other agreements on its part herein provided to be performed and observed by Aqua to the same extent as though no sale, lease, mortgage, or other encumbrance had been made.

2. Notwithstanding the foregoing, upon entry of a judgment in any eminent domain action, or the delivery of a deed in lieu of entry of a judgment in an eminent domain action, that conveys title to the Aqua-Oak Brook System to the Commission, to any one of the Charter Customers, or to any entity acting on behalf of the Commission or any Charter Customer, then Aqua may assign its rights and obligations under this Contract to such entity receiving title and may be released from its obligations under this Contract, but only after the prior express written consent of the Commission, which consent may be withheld until the Commission receives assurances satisfactory to the Commission that such entity receiving title shall fulfill all obligations of this Contract, including without limitation payment of all amounts specified or referred to in this Contract.

3. Aqua, within 30 days after a judgment or the delivery of a deed in lieu as set forth in Section 11.H.2 above, shall furnish to the Commission a true and complete copy of each material assumption of obligation, contract of sale, lease, mortgage, or other encumbrance made or entered into.

EXHIBIT 1

I. Insurance. Aqua shall carry insurance or maintain self-insurance with respect to the Aqua-Oak Brook System and the Aqua-Oak Brook System Connection Facilities of the kinds and in the amounts that are customarily carried or maintained by parties operating similar properties, including, without limiting the generality of the foregoing, fire and other casualty and liability insurance or protection. All moneys received for loss under the insurance policies or on deposit as self-insurance reserves shall be used in making good the loss or damage in respect of which they were paid, whether by repairing the property damaged or replacing the property destroyed, and provision for making good such loss or damage or replacing the property destroyed shall be made within a reasonable time from date of loss. The proceeds derived from any and all policies or available from self-insurance reserves for public liability losses shall be used in paying or reimbursing any accounts from which payments for settlements, judgments, or expenses were advanced.

J. Continue to Serve. Subject to the proper exercise by a governmental authority of its powers of eminent domain, Aqua shall use its best efforts to continue serving all customers of the Aqua System within its territorial limits that are served as of the date of this Contract.

K. Maintain Water Allocation. Aqua shall use its best efforts to obtain or retain, from time to time, a Water Allocation for each Unit System at least equal to, but not in excess of two times, such Unit System's Full Water Requirements from time to time.

L. Release and Indemnification. To the fullest extent permitted by law, Aqua hereby releases the Commission from, agrees that the Commission shall not be liable for, and agrees to indemnify and hold the Commission harmless from: (1) any liabilities for any loss or damage to property or any injury to, or death of, any person that may be occasioned by or related to any cause whatsoever pertaining to the construction, installation, removal, relocation, replacement, extension, improvement, maintenance, or operation of the Aqua-Oak Brook System or the Connection Facilities or (2) any liabilities, losses, or damages, or claims therefor, arising out of the failure, or claimed failure, of Aqua to comply with its covenants or obligations contained in this Contract, including, in each such case, any attorneys' fees. Aqua agrees to indemnify and hold the Commission harmless to the fullest extent permitted by law from any losses, costs, charges,

EXHIBIT 1

expenses (including attorneys' fees), judgments, and liabilities incurred by the Commission in connection with any action, suit, or proceeding instituted or threatened by any third party in connection with this Contract. If any such claim is asserted, the Commission shall give prompt notice to Aqua and Aqua, if requested by the Commission, shall assume the defense thereof, it being understood, however, that Aqua shall not settle or consent to the settlement of any such claim without the written consent of the Commission.

M. Rate of Withdrawal. Aqua will take Lake Water at the most uniform and continuous rate of withdrawal practical.

N. Aqua Not Barred from Contracting. Aqua certifies and states that Aqua is not barred from contracting with the Commission as a result of a violation of either Section 33E-3 or Section 33E-4 of the Criminal Code of 1961, 720 ILCS 5/33E-1 et seq or any other laws.

SECTION 10. SCHEDULE FOR COMPLETION OF VARIOUS FACILITIES.

A. Plans and Specifications for Aqua-Oak Brook Connection Facilities. Aqua shall prepare and submit to the Commission for its review and approval, complete detailed plans, specifications, and construction contract documents for the Aqua-Oak Brook System Connection Facilities not later than 88 weeks after the execution of this Contract, unless otherwise agreed by the Commission in writing. The Commission shall endeavor to provide its comments and revisions, to Aqua within 28 days after receipt of such documents. Aqua shall incorporate all required changes to such documents within 28 days after receipt of the Commission's comments and revisions.

B. IEPA and Other Approvals For Aqua-Oak Brook System Connection Facilities. Aqua shall, within 28 days after receipt of the Commission's comments and revisions pursuant to Subsection 10A above, submit such finally revised documents for approval and permitting to the Illinois Environmental Protection Agency (the "IEPA") and every other federal, state, or local governmental body having jurisdiction over any element of the Aqua-Oak Brook System Connection Facilities, and shall diligently pursue each such approval and permit until it is secured.

EXHIBIT 1

C. Commencement of Construction of Aqua-Oak Brook System Connection Facilities. Aqua shall cause construction of the Aqua-Oak Brook System Connection Facilities to be commenced within 28 days after receipt of the last approval from any governmental body required as a condition precedent to construction of the Aqua-Oak Brook System Connection Facilities, whichever is later. Aqua shall cause construction to be completed within two years of the effective date of this Agreement.

D. Plans and Specifications for Water Storage Facilities. Aqua shall prepare and submit to the Commission for its review and approval, complete detailed plans, specifications, and construction contract documents for the water storage facilities required to be built by Aqua pursuant to Subsection 4C of this Contract within 88 weeks after execution of this Contract. The Commission shall endeavor to provide its comments and revisions to Aqua within 28 days after receipt of such documents. Aqua shall incorporate all required changes to such documents within 28 days after receipt of the Commission's comments and revisions. The timetable established in this Subsection 10D is subject to reasonable extension mutually agreeable to Aqua and the Commission, if required by Aqua to prepare and submit to the Commission revised plans, specifications, and construction contract documents required as a result of local governmental zoning and permit approvals.

E. IEPA and Other Approvals for Water Storage Facilities. Aqua shall, within 28 days after receipt of the Commission's comments and revisions pursuant to Subsection 10D above, submit such finally revised documents for approval and permitting to the IEPA and every other federal, state, or local governmental body having jurisdiction over any element of the water storage facilities, and shall diligently pursue each such approval and permit until it is secured.

F. Commencement of Construction of Water Storage Facilities. Aqua shall cause construction of the water storage facilities to be commenced within 28 days after receipt of the last approval from any governmental body required as a condition precedent to construction of the water storage facilities. Aqua shall cause construction to be completed within three (3) years of the effective date of this Agreement.

EXHIBIT 1

G. Transfer of Property Rights. Aqua shall grant to the Commission all necessary and insured easements for the Commission metering station and other facilities to be constructed pursuant to Subsection 5A of this Contract. Aqua shall within 64 weeks after execution of this Contract, commence all actions necessary to acquire all property rights not already owned by it necessary to fulfill the requirements of Subsection 5A of this Contract and this Subsection 10G.

H. Commencement of Construction of Commission Connection Facilities. The Commission shall cause design of the Commission Connection Facilities to be commenced concurrently with Aqua's design of the Aqua-Oak Brook System Connection Facilities or 28 days after acquisition of all rights-of-way and other property required for the installation of the Commission Connection Facilities, whichever is later. The Commission shall cause construction to be completed within 148 weeks after commencement of design as herein required or 28 days after receipt of the last approval from any governmental body required as a condition precedent to construction of the Commission Connection Facilities, whichever is later. Aqua acknowledges and agrees, however, that the Commission may, in the exercise of its sole and absolute discretion, accelerate commencement of the design and construction of the Commission Connection Facilities, or completion of construction thereof, without in any way affecting the obligations of Aqua under this Contract, including without limitation Aqua's payment obligations.

I. Illustrative Schedule of Events. An "Illustrative Schedule of Events" depicting, on the basis of assumptions concerning the length of time that will be required to secure various governmental approvals, the sequence of work pursuant to this Section 10 is attached to this Contract as Exhibit G. In the event of any conflict or inconsistency between the provisions of Exhibit G and the provisions of this Section 10, the provisions of this Section 10 shall control.

SECTION 11. ASSIGNABILITY.

Except to the extent specifically provided in Subsection 9H of this Contract and in this Section 11, Aqua shall not assign or transfer this Contract or any rights or interests herein without the advance written consent of the Commission.

O-4-22
EXHIBIT 1

Aqua may assign this Contract to any Charter Customer of the Commission; provided, however, that no such assignment shall modify, limit, or impair any of the duties and obligations under this Contract and that any such assignee shall pay the Commission according to the rates and prices established in Section 7 of this Contract.

The right to receive all payments that are required to be made by Aqua to the Commission in accordance with the provisions of this Contract may be assigned by the Commission to any Trustee as provided in any Bond Ordinance to secure the payment of the principal of and the premium, if any, and interest on the Bonds as those amounts come due, subject to the application of those payments as may be provided in any Bond Ordinance. Aqua, upon notice of assignment to any such Trustee, shall make all payments directly to such Trustee. Further, the rights of the Commission to enforce the provisions of this Contract may be assigned to any such Trustee and, in such event, such Trustee shall have the right to enforce this Contract at law or in equity with or without the further consent or participation of the Commission. The Commission also may retain the right to enforce this Contract.

SECTION 12. TRANSFER WITHOUT CONSENT, DISSOLUTION, INSOLVENCY, OR IMPAIRMENT OF OBLIGATIONS

In the event all or any part of the Aqua-Oak Brook System or any obligation under this Contract is transferred, sold, or assigned other than in compliance with the terms of this Contract, or in the event of a threat of insolvency, dissolution, or liquidation of Aqua, or the initiation of any proceeding under federal or state law, whether voluntary or involuntary, relating to insolvency, arrangement, reorganization, readjustment of debt, or any other form of debtor relief, or the failure of Aqua promptly to have discharged any execution, garnishment, or attachment of such consequence as would impair the ability of Aqua to carry on its operations of the Aqua System or otherwise threaten Aqua's ability to fulfill all of its obligations under this Contract, or the assignment by Aqua for the benefit of creditors, or the entry by Aqua into an agreement of composition with creditors, or the failure generally by Aqua to pay its debts as they become due, then all amounts to be paid by Aqua over the life of this Contract pursuant to Subsections 7B, 7C, and 7D of this Contract, and the similar provisions of the other Unit System Contracts, shall

EXHIBIT 1

become immediately due and payable to the Commission without notice, declaration, or other action of the Commission.

SECTION 13. FORCE MAJEURE.

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

EXHIBIT 1

SECTION 14. COMMISSION DEFAULTS.

Failure by the Commission to deliver Lake Water to Aqua as required by this Contract or failure of the Commission to perform any other obligation under this Contract, and the continuation of that failure to perform for 30 days after written notice from Aqua to the Commission of such failure, shall be a default of the Commission under this Contract, unless any such failure is excused pursuant to Section 13 of this Contract. If the Commission defaults under this Contract, then Aqua may bring any action against the Commission allowed by law. No Commission default shall relieve Aqua of its obligation to make payments to the Commission as required under Section 7 of this Contract and such payments shall continue as if the Aqua-Oak Brook System were receiving its Full Water Requirements from the Commission.

SECTION 15. AQUA OBLIGATION UNCONDITIONAL.

Aqua shall have no right to terminate, cancel, or rescind this Contract; no right to withhold from the Commission or any Trustee who is an assignee of the Commission pursuant to Section 11 of this Contract payments due or to become due under this Contract; no right to recover from the Commission or any such Trustee amounts previously paid under this Contract unless paid in error or contrary to the provisions of this Contract or law; no right of reduction or set-off against the amounts due or to become due under this Contract to the Commission or any such Trustee; and no lien on any amounts in any fund established by the Commission or such Trustee for any reason or on account of the existence or occurrence of any event, condition, or contingency, whether foreseen or unforeseen or foreseeable or unforeseeable by Aqua or the Commission or any other person, including by way of illustration and not limitation by reason of the fact that the Waterworks System in whole or in part is not completed, operable, or operating; or the output of the Waterworks System in whole or in part is suspended, interrupted, interfered with, reduced, or curtailed; or any party to the Lake Michigan Water Contract, does not perform in whole or in part thereunder; or the Water Allocation of any of the Commission's Contract Customers is modified or terminated or any such Contract Customer does not perform in whole or in part any agreement or instrument, it being the intent hereof that Aqua shall be absolutely and unconditionally obligated

EXHIBIT 1

to make all payments under this Contract. The Commission may issue its Bonds in specific reliance on the limitations set forth in this Section 15 with respect to the rights of Aqua.

SECTION 16. COOPERATION IN CONSTRUCTION; EASEMENTS.

Aqua shall cooperate with the Commission in the construction and acquisition of the Waterworks System. Aqua, within 30 days after the Commission's request therefor, shall grant without charge to the Commission all required construction easements and all insured easements necessary for portions of the Waterworks System to be located on Aqua's property, free and clear of all liens, claims, encumbrances, and restrictions unless otherwise approved by the Commission in writing, provided the Commission agrees to restore the easement property in a reasonable manner after construction. Aqua shall grant the Commission all access to its property necessary to construct and install the Commission Connection Facilities and all other equipment and appurtenant devices to the Point of Delivery.

SECTION 17. TAX COVENANTS.

Notwithstanding anything herein to the contrary, Aqua shall not purchase any Lake Water from the Commission or take any other action pursuant to this Contract that would cause the Commission to breach the tax covenants contained in any Bond Ordinance or that would otherwise cause the interest on any Bonds to become taxable. The Commission and Aqua acknowledge and agree that this provision may limit the duty of the Commission to sell Lake Water to Aqua. An opinion of an attorney or firm of attorneys having nationally recognized standing and expertise in municipal finance shall be obtained before any sale or purchase of Lake Water is made or any other action is taken pursuant to this Contract that may endanger the tax-exempt status of any of the Commission's Bonds.

SECTION 18. COOPERATION IN ISSUANCE OF BONDS.

Aqua shall cooperate with the Commission in the issuance of Bonds. In such connection, Aqua shall comply with all reasonable requests of the Commission and shall upon request do as follows:

EXHIBIT 1

- A. Make available general and financial information about itself; and
- B. Consent to publication and distribution of its financial information; and
- C. Certify that general and financial information about it is accurate, does not contain an untrue statement of a material fact, and does not omit to state a material fact necessary in order to make the statements in that information, in light of the circumstances under which they were made, not misleading; and
- D. Make available certified copies of official proceedings; and
- E. Provide reasonable certifications to be used in a transcript of closing documents; and
- F. Provide and pay for reasonably requested opinions of counsel of its choice as to the validity of its actions taken with respect to, and the binding effect of, this Contract, title to the Aqua-Oak Brook System, pending or threatened litigation which could materially affect its performance hereunder, and other reasonably related opinions.

The provisions of Subsection 18A above shall be deemed satisfied by delivery by Aqua to the Commission of a complete set of the annual audited financial statements of Aqua Company for the most recently completed fiscal year, duly certified by its independent certified public accountants.

SECTION 19. REGULATORY BODIES.

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

O-4-22
EXHIBIT 1

SECTION 20. OTHER WATER SUPPLIERS.

Notwithstanding any of the provisions of this Contract, the Commission is not prohibited by this Contract from entering into cooperative arrangements with other suppliers or users of Lake Water to provide Lake Water to each other to meet each other's water needs, provided that these arrangements do not interfere, except in emergencies, with the delivery of Lake Water to the Aqua-Oak Brook System.

SECTION 21. NOTICES; EVIDENCE OF ACTIONS.

A. Notices. All notices or communications provided for herein shall be in writing and shall be delivered either in person or by United States mail, by certified mail with return receipt requested, postage prepaid, addressed as follows:

To the Commission: DuPage Water Commission
600 East Butterfield Road
Elmhurst, Illinois 60126
Attention: General Manager

To Aqua: Aqua Illinois, Inc.
1000 Schuyler Avenue
Kankakee, IL 60901
Attention: President

until and unless other addresses or addressees are specified by notice given in accordance herewith.

B. Evidence of Actions. Any action hereunder to be taken by the Commission or Aqua may be evidenced by copy of official proceedings (including pertinent minutes, motions, resolutions, or ordinances, as applicable) duly certified by the Clerk of the Commission or the Secretary of Aqua.

EXHIBIT 1

All notices, demands, requests, consents, approvals, and other instruments required or permitted to be made or given by Aqua shall be in writing, signed by a duly authorized officer, agent, or attorney of Aqua.

SECTION 22. EFFECTIVE DATE; ICC APPROVAL; TERM.

A. Effective Date. Except for the provisions of Section 10 of this Contract relating to the commencement of certain work following execution of this Contract and except for the provisions of Section 23 of this Contract relating to the payment of certain costs, as to which provisions this Contract shall be effective immediately after authorization and execution by both parties hereto, this Contract shall be effective upon the later of the happening of the Closing Contingency listed in Subsection 3.C., or authorization and execution by both parties hereto and approval of this Contract to the extent required by the Illinois Commerce Commission in the manner provided by law, including without limitation approval of initial rates sufficient to satisfy the Rate Covenant set forth in Subsection 9C of this Contract, which approval Aqua agrees to apply for not later than 42 days after execution of this Contract and to diligently pursue; provided, however, that the parties' execution of this Contract shall, except as provided in Subsection 22B below, remain effective and binding on each party.

B. ICC Approval. If the Illinois Commerce Commission approval is necessary to effectuate this Contract or any part hereof, and the Illinois Commerce Commission approves some but not all of the provisions of this Contract, then the Commission and Aqua may, each in the exercise of its sole discretion, agree by written amendment to revise the provisions of this Contract to a form satisfactory to the Illinois Commerce Commission. In the event of such an agreed revision, this Contract shall take effect as revised but, unless and until such agreed revision is executed by both the Commission and Aqua, this Contract shall be of no force or effect except to the extent provided in Sections 10 and 23 of this Contract as aforesaid. Nothing in this Contract shall be construed to require either the Commission or Aqua to agree to any revision to this Contract as a result of any action by the Illinois Commerce Commission.

EXHIBIT 1

C. Term. This Contract shall continue in force and effect until February 24, 2024, unless this Contract is terminated sooner by the Commission pursuant to the terms of this Contract.

SECTION 23. REGULATORY PROCEEDINGS.

Whether or not this Contract, or any agreed revision of it, is ever approved by the Illinois Commerce Commission, Aqua shall pay to the Commission all attorneys', engineering, and administrative fees, costs, and expenses incurred by the Commission for any work related to, or participation in, any regulatory proceeding which shall be required or requested of the Commission by the Illinois Commerce Commission or by Aqua as a result of, or as occasioned by, this Contract and, further, shall pay to the Commission all attorneys', engineering, and administrative fees, costs, and expenses incurred by the Commission in connection with the negotiation, preparation, consideration, and review of this Contract and in implementing the terms of this Contract, including without limitation the costs of design of the Commission Connection Facilities. If this Contract is not approved by the Illinois Commerce Commission, then Aqua's payment hereunder shall be due and payable immediately after receipt by it of an invoice from the Commission detailing such costs. If this Contract is approved by the Illinois Commerce Commission, then such costs shall be treated as part of the Connection Facilities Cost provided in Subsection 7C of this Contract.

SECTION 24. GOVERNING LAW.

This Contract shall be construed exclusively under the applicable laws, but not the conflicts of laws rules, of the State of Illinois. The parties agree that venue for any litigation arising out of this Contract shall only be proper in the Eighteenth Judicial Circuit Court, DuPage County, Illinois and waive any right, whether statutory or otherwise, to venue in any other jurisdiction.

SECTION 25. MISCELLANEOUS

A. Waiver. No course of dealing or failure of the Commission or Oswego to enforce strictly any term, right, or condition of this Contract shall be construed as a waiver of such term,

O-4-22
EXHIBIT 1

right, or condition. No express waiver of any term, right, or condition of this Contract shall operate as a waiver of any other term, right, or condition.

B. Partial Invalidity. If a term or provision of this Contract or the application thereof to any person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Contract, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each such term and provision of this Contract shall be valid and be enforced to the fullest extent permitted by law.

C. Payment of Interim Costs. Whether or not the Aqua-Oak Brook System is ever completed, operable, or operating, Aqua shall pay to the Commission all attorneys', engineering, and administrative fees, costs, and expenses incurred by the Commission for any work related to, or participation in, any regulatory proceeding which shall be required or requested of the Commission by the Illinois Department of Department of Natural Resources, Office of Water Resources, or by Aqua as a result of, or occasioned by, this Contract and, further, shall pay to the Commission all attorneys', engineering, and administrative fees, costs, and expenses incurred by the Commission in connection with the negotiation, preparation, consideration, and review of this Contract and in implementing the terms of this Contract, including without limitation the costs of the design and construction of the Commission Connection Facilities.

D. Commission Remedies. In the event that Aqua does not construct the Alternate Delivery or Direct Connection Facilities in the time period required by Subsections 4C and 4D above, and subject to events of Force Majeure, the Commission shall have the right but not the obligation to draw on the Cash Deposit upon fourteen (14) days written notice and proceed to complete the work necessary to complete the Direct Connection Facilities with two direct connections to the Waterworks System at no cost to the Commission. To the fullest extent permitted by law, Aqua shall indemnify and hold the Commission harmless for any claims, causes of action or third-party injuries incurred due to the Commission constructing the Direct Connection Facilities or any portion thereof. To the extent the Cash Deposit is not sufficient to cover the costs to construct the Direct Connection Facilities as set forth herein, and any other costs incurred by the Commission, including but not limited to attorneys' fees, engineering costs and land

O-4-22
EXHIBIT 1

acquisition costs, Aqua shall pay the Commission within thirty (30) days of receipt of any invoice(s) the costs incurred by the Commission in excess of the remaining Cash Deposit. Further, the parties agree that the Commission shall be irreparably harmed and shall be without an adequate remedy at law if Aqua does not comply with the provisions of Subsections 4C and 4D above; therefore, if the Commission so desires, it shall be entitled to a mandatory injunction requiring that Aqua complete the Direct Connection Facilities in a timely manner at Aqua's sole cost and expense. Further, Aqua shall pay the Commission any attorneys' fees and any other costs incurred by the Commission to either obtain an injunction or collect on any costs unpaid by Aqua pursuant to its failure to comply with Subsections 4C and 4D above.

SECTION 26. MODIFICATIONS OR AMENDMENTS.

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

SECTION 27. EXHIBITS INCORPORATED.

Exhibits A-1, A-2, B-1, B-2, C, D, E, F, and G to this Contract are hereby fully incorporated into this Contract as substantive provisions of this Contract.

SECTION 28. EXECUTION IN COUNTERPARTS.

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

O-4-22
EXHIBIT 1

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

Date: _____

AQUA ILLINOIS, INC.

By: _____

Its: _____

ATTEST:

Its: _____

Date: _____

DUPAGE WATER COMMISSION

By: _____

James Zay

Its: Chairman

ATTEST:

Danna Mundall
Clerk

Date: _____

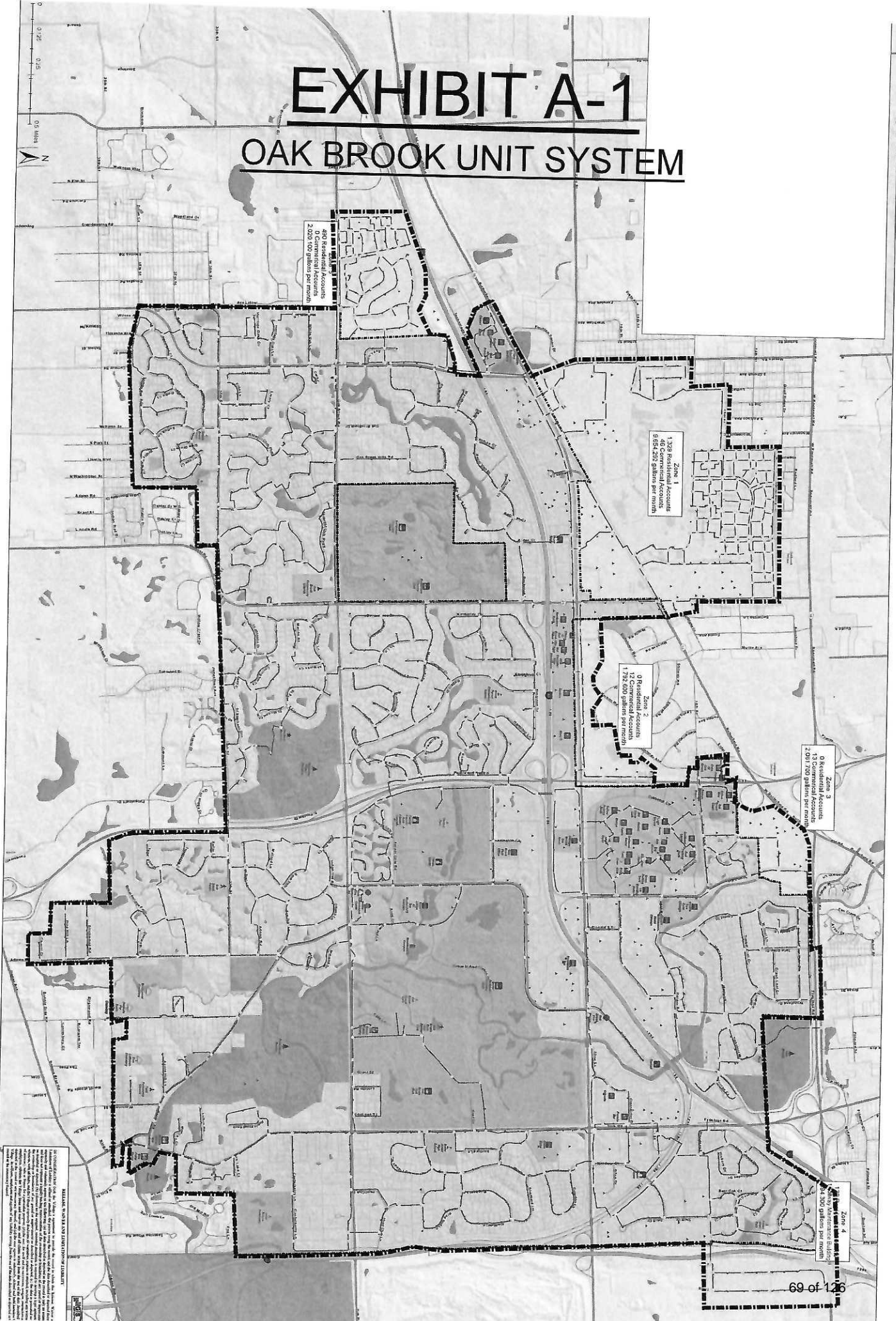
O-4-22
EXHIBIT 1

LIST OF EXHIBITS

- Exhibit A-1: Oak Brook Unit System
- Exhibit A-2: Aqua-Oak Brook System Service Area
- Exhibit B-1: Preliminary Plans for the Aqua-Oak Brook System Connection Facilities
- Exhibit B-2: Preliminary Plans for the Commission Connection Facilities and the Points of Delivery
- Exhibit C: Aqua-Oak Brook System and Unit Systems
- Exhibit D: Calculation of Water Storage Requirements
- Exhibit E: Metering Station Easement Agreement
- Exhibit F: Illustrative Calculation of Section 12(c)(iii) Amount and Payments
- Exhibit G: Illustrative Schedule of Events

EXHIBIT A-1

OAK BROOK UNIT SYSTEM



480 Residential Accounts
0 Commercial Accounts
2,004,100 gallons per month

Zone 1
1,329 Residential Accounts
0 Commercial Accounts
9,654,262 gallons per month

Zone 2
0 Residential Accounts
132 Commercial Accounts
1,732,400 gallons per month

Zone 3
10 Residential Accounts
0 Commercial Accounts
2,091,700 gallons per month

Zone 4
121 Residential Accounts
0 Commercial Accounts
84,500 gallons per month

GENERAL NOTES:
1. This map is a preliminary plan and is subject to change without notice.
2. The information on this map is based on the best available information at the time of preparation.
3. The information on this map is not intended to be used for any purpose other than the one for which it was prepared.
4. The information on this map is not intended to be used for any purpose other than the one for which it was prepared.
5. The information on this map is not intended to be used for any purpose other than the one for which it was prepared.



Water System Transfer Zones

- Village of Oak Brook System Valve
 - System Valve - Other Ownership
 - Possible System Valve (Requires Verification)
 - ▲ Private Hydrant
 - Village of Oak Brook Hydrant
 - Village of Oak Brook Water Main
 - Water System Transfer Zone
- Total Monthly Usage**
16,122,992 gallons/month
- Total Services**
1949 residential accounts
71 commercial accounts
1 tollway maintenance building

EXHIBIT A-2

AQUA-OAK BROOK SYSTEM SERVICE AREA

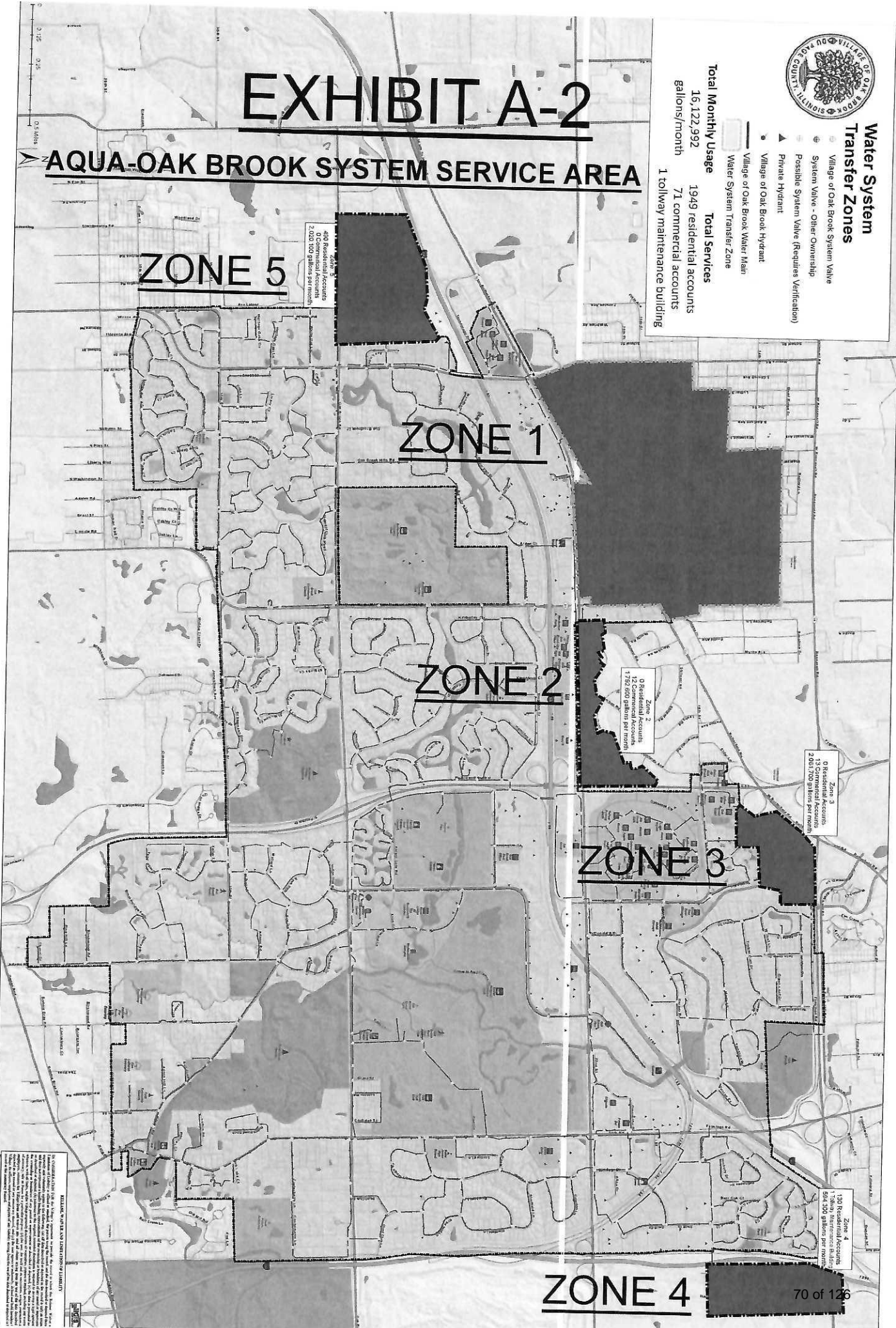


EXHIBIT B-1
PRELIMINARY PANS FOR THE AQUA-OAK BROOK SYSTEM SERVICE AREA



AQUA IL proposes two (2) direct metering stations to serve the five (5) zones.

The first direct connect metering station will be used to serve zones 1-4. The proposed tie in location is the 36" steel main along Summit Ave. See Figure 1 for depiction of proposed site. Once all the zones are connected, this location will allow for adequate service to all customers with considerations to operating pressures and fire flow availability.

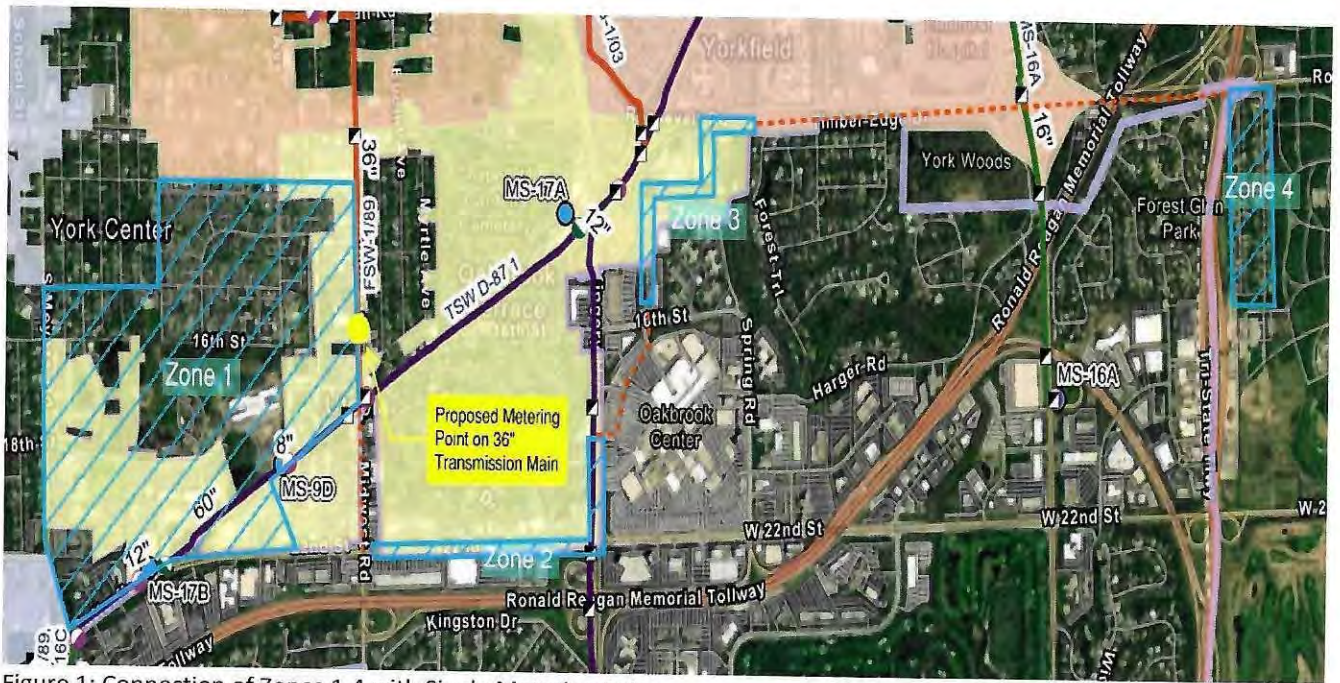


Figure 1: Connection of Zones 1-4 with Single Metering Point

EXHIBIT B-1
PRELIMINARY PANS FOR THE AQUA-OAK BROOK SYSTEM SERVICE AREA



The second direct connect metering station will serve zone 5, which is South of I-88. This zone was left independent due to the expected challenges of crossing the tollway. The proposed tie in location is at the 16" ductile iron main along the frontage road to Toll Plaza 52 Eastbound. See Figure 2 for depiction of the proposed site.



Figure 2: Connection of Zone 5 with Single Metering Point

EXHIBIT B-2 PRELIMINARY PLANS FOR THE COMMISSION CONNECTION FACILITIES AND THE POINTS OF DELIVERY

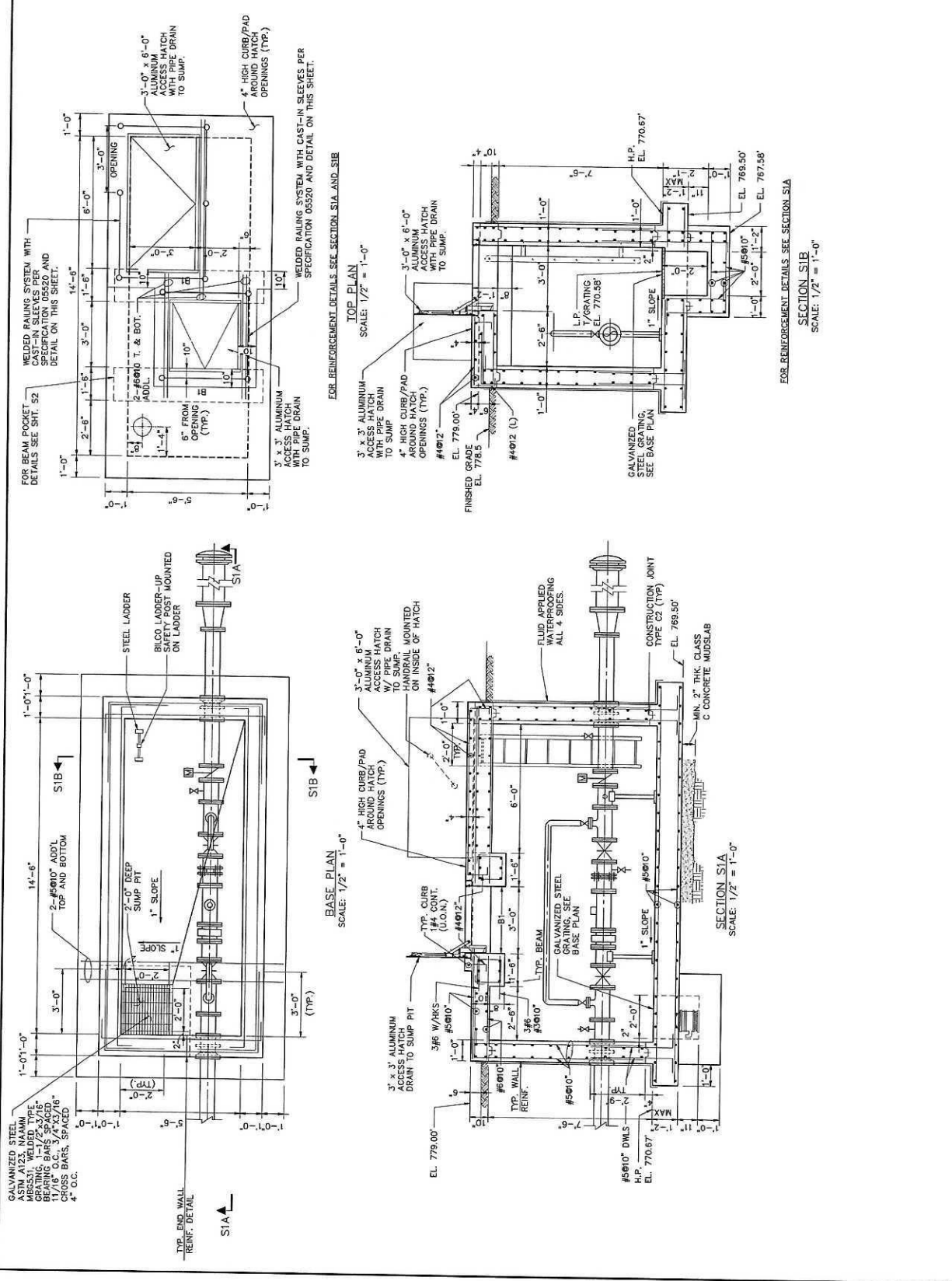


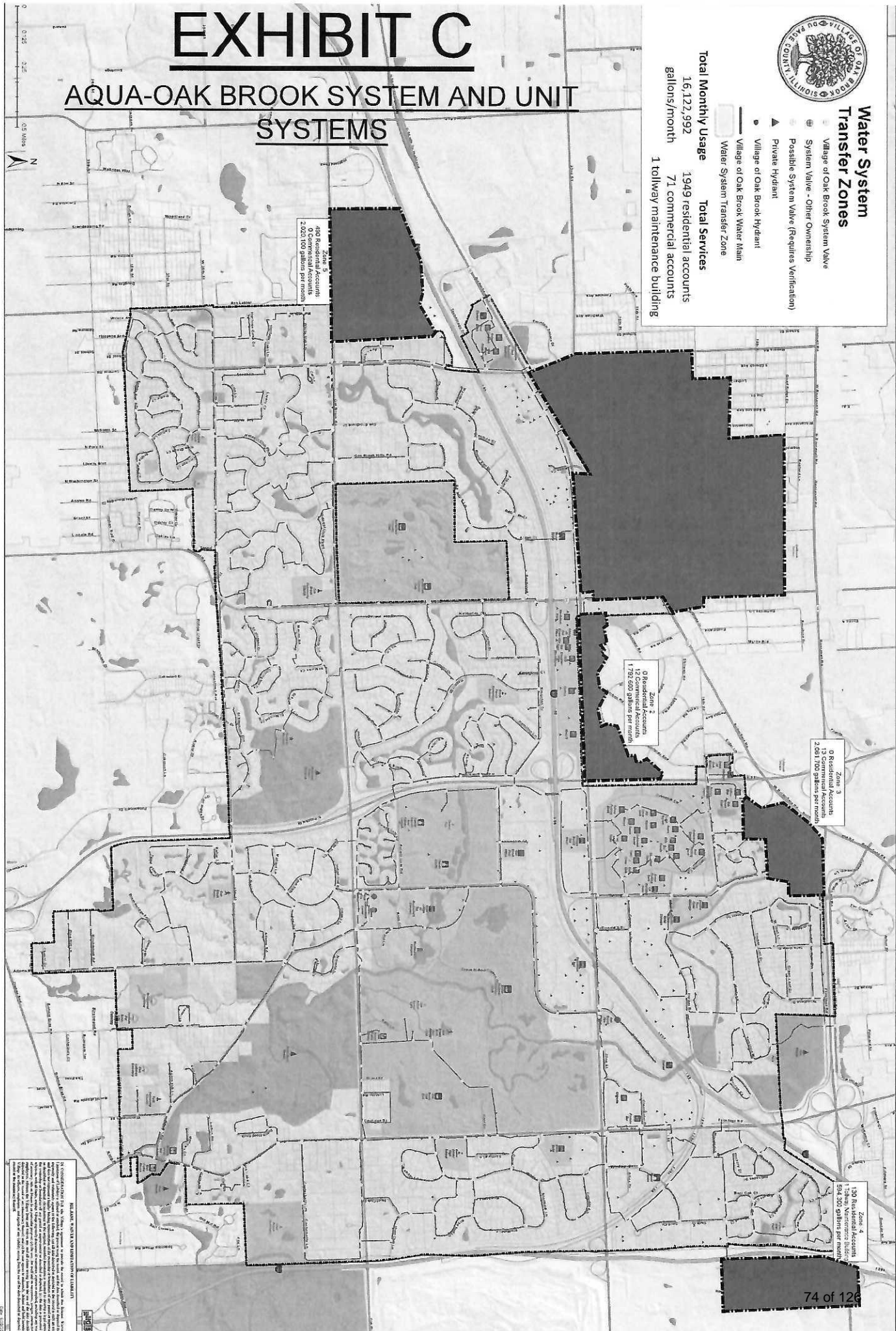
EXHIBIT C

AQUA-OAK BROOK SYSTEM AND UNIT SYSTEMS



Water System Transfer Zones

- Village of Oak Brook System Valve
 - System Valve - Other Ownership
 - Possible System Valve (Requires Verification)
 - ▲ Private Hydrant
 - ▲ Village of Oak Brook Hydrant
 - Village of Oak Brook Water Main
 - Water System Transfer Zone
- Total Monthly Usage**
16,122,992 gallons/month
- Total Services**
1949 residential accounts
71 commercial accounts
1 tollway maintenance building



**EXHIBIT D
MINIMUM WATER STORAGE REQUIREMENTS**

| REVISED (07/31/21) CUSTOMER | EXIST STORAGE (MG) | 2022 ALLOCATION (IN MGD) | % OF SYSTEM | REQUIRED STORAGE | SHALLOW WELL ALLOWANCE | % OF DWC STORAGE (MG) | STORAGE ABOVE OR (BELOW) REQ (MG) |
|--------------------------------|--------------------------|--------------------------------|----------------|---------------------|------------------------------|-----------------------------|--|
| ADDISON | 6.75 | 4.503 | 4.14% | 9.01 | 0.90 | 2.59 | 1.23 |
| AQUA ILLINOIS (1) | 0.00 | 0.501 | 0.46% | 1.00 | 0.00 | 0.29 | (0.71) |
| ARGONNE | 1.60 | 0.758 | 0.70% | 1.52 | 0.15 | 0.44 | 0.67 |
| BARTLETT | 8.20 | 3.450 | 3.17% | 6.90 | 0.69 | 1.98 | 3.97 |
| BENSENVILLE | 3.55 | 2.625 | 2.41% | 5.25 | 0.00 | 1.51 | (0.19) |
| BLOOMINGDALE | 4.80 | 3.104 | 2.85% | 6.21 | 0.62 | 1.78 | 1.00 |
| CAROL STREAM | 6.50 | 4.682 | 4.30% | 9.36 | 0.94 | 2.69 | 0.76 |
| IAWC ARROWHEAD | 0.40 | 0.190 | 0.17% | 0.38 | 0.04 | 0.11 | 0.17 |
| IAWC COUNTRY CLUB | 0.20 | 0.105 | 0.10% | 0.21 | 0.02 | 0.06 | 0.07 |
| IAWC DU PAGE/LISLE | 0.91 | 0.591 | 0.54% | 1.18 | 0.12 | 0.34 | 0.19 |
| IAWC LOMBARD | 0.07 | 0.065 | 0.06% | 0.13 | 0.01 | 0.04 | (0.01) |
| IAWC VALLEY VIEW | 0.88 | 0.700 | 0.64% | 1.40 | 0.14 | 0.40 | 0.02 |
| IAWC LIBERTY RIDGE WEST | 0.40 | 0.359 | 0.33% | 0.72 | 0.07 | 0.21 | (0.04) |
| IAWC LIBERTY RIDGE EAST | 0.07 | 0.049 | 0.05% | 0.10 | 0.01 | 0.03 | 0.01 |
| CLARENDON HILLS | 1.25 | 0.899 | 0.83% | 1.80 | 0.18 | 0.52 | 0.15 |
| DARIEN /DPC-SERWF | 4.00 | 3.262 | 3.00% | 6.52 | 0.65 | 1.87 | 0.00 |
| DOWNERS GROVE | 8.00 | 7.400 | 6.80% | 14.80 | 1.48 | 4.25 | (1.07) |
| DUPAGE COUNTY | 2.63 | 1.355 | 1.25% | 2.71 | 0.27 | 0.78 | 0.97 |
| ELMHURST | 15.00 | 4.759 | 4.37% | 9.52 | 0.95 | 2.73 | 9.17 |
| GLENDALE HEIGHTS | 4.70 | 2.999 | 2.76% | 6.00 | 0.60 | 1.72 | 1.02 |
| GLEN ELLYN (2) | 3.20 | 3.202 | 2.94% | 6.40 | 0.64 | 1.84 | (0.72) |
| HINSDALE | 4.50 | 2.955 | 2.72% | 5.91 | 0.59 | 1.70 | 0.88 |
| ITASCA | 3.50 | 2.015 | 1.85% | 4.03 | 0.40 | 1.16 | 1.03 |
| LISLE (3) | 4.79 | 3.308 | 3.04% | 6.62 | 0.66 | 1.90 | 0.74 |
| LOMBARD (4) | 5.55 | 5.257 | 4.83% | 10.51 | 1.05 | 3.02 | (0.89) |
| NAPERVILLE | 43.90 | 22.259 | 20.46% | 44.52 | 4.45 | 12.79 | 16.62 |
| OAK BROOK | 8.00 | 4.536 | 4.17% | 9.07 | 0.91 | 2.61 | 2.44 |
| OAKBROOK TERRACE | 0.50 | 0.293 | 0.27% | 0.59 | 0.06 | 0.17 | 0.14 |
| ROSELLE | 1.75 | 2.387 | 2.19% | 4.77 | 0.48 | 1.37 | (1.18) |
| VILLA PARK | 3.80 | 2.222 | 2.04% | 4.44 | 0.00 | 1.28 | 0.63 |
| WESTMONT | 4.50 | 3.090 | 2.84% | 6.18 | 0.62 | 1.77 | 0.71 |
| WHEATON | 7.26 | 6.046 | 5.56% | 12.09 | 1.21 | 3.47 | (0.15) |
| WINFIELD (5) | 1.60 | 1.224 | 1.12% | 2.45 | 0.24 | 0.70 | 0.10 |
| WILLOWBROOK | 4.00 | 1.489 | 1.37% | 2.98 | 0.30 | 0.86 | 2.18 |
| WOOD DALE | 3.35 | 1.693 | 1.56% | 3.39 | 0.34 | 0.97 | 1.28 |
| WOODRIDGE | 6.15 | 4.479 | 4.12% | 8.96 | 0.90 | 2.57 | 0.66 |
| CUSTOMER TOTAL | 176.26 | 108.811 | 100.00% | 217.62 | 20.69 | 62.50 | 41.83 |
| DWC TOTAL | 62.50 | | | | | | |
| TOTAL | 238.76 | | | | | | |

- (1) AQUA STORAGE TEMPORARILY PROVIDED BY OAK BROOK.
TEMPORARY USAGE FOR AQUA ILLINOIS IN LIEU OF IDNR ALLOCATION
(2) INCLUDES GLEN ELLYN CONTRACTED STORAGE TO IAWC LIBERTY RIDGE EAST
(3) INCLUDES LISLE CONTRACTED STORAGE TO IAWC DUPAGE/LISLE SYSTEM
(4) INCLUDES LOMBARD CONTRACTED STORAGE TO IAWC LOMBARD HEIGHTS SYSTEM
(5) INCLUDES WINFIELD CONTRACTED STORAGE TO IAWC LIBERTY RIDGE WEST

O-4-22

EXHIBIT E

METERING STATION EASEMENT AGREEMENT

DuPAGE WATER COMMISSION METERING STATION

EASEMENT AGREEMENT

(Aqua-Oak Brook System)

PERMANENT REAL ESTATE TAX INDEX NO. _____

Prepared by and Mail to:

METERING STATION
EASEMENT AGREEMENT

(Aqua-Oak Brook System)

THIS EASEMENT AGREEMENT, made and entered into this ____ day of _____, 202_, by and between the DuPAGE WATER COMMISSION, a county water commission created and existing under the laws of the State of Illinois (the "Commission") and Aqua Company of Illinois, an Illinois corporation created and existing under the laws of the State of Illinois and a customer of the Commission (the "Customer"),

WITNESSETH:

WHEREAS, the Commission and the Customer have entered into a certain Water Purchase and Sale Contract dated as of ____ day of _____, 202_ (the "Contract"); and

WHEREAS, the Contract provides that the Commission is to furnish, install, own, operate, maintain, repair, and replace certain equipment and devices, together with certain above-ground structures and portions of its water distribution mains, including underground feeder pipe lines and related equipment, for properly conveying and measuring the quantity of Lake Michigan water delivered by the Commission to the Customer under the Contract (collectively referred to as the "Aqua-Oak Brook Metering Stations"); and

WHEREAS, the Contract provides that the Aqua-Oak Brook Metering Stations are to be located at sites selected and provided by the Customer, subject to review and approval by the Commission; and

WHEREAS, the Customer has selected the sites legally described and generally depicted in Exhibit A attached hereto and by this reference incorporated herein and made a part hereof (the "Aqua-Oak Brook Metering Station Easements") for the location of the

Aqua-Oak Brook Metering Stations as generally depicted in Exhibit B attached hereto and by this reference incorporated herein and made a part hereof; and

WHEREAS, the Commission has reviewed the Aqua-Oak Brook Metering Station Easements and approved the same for the location of the Aqua-Oak Brook Metering Stations; and

WHEREAS, the Commission has submitted to the Customer for review the drawings and specifications for the Aqua-Oak Brook Metering Stations; and

WHEREAS, the Commission and the Customer desire to enter into this Easement Agreement in order to provide the Commission with a sufficient property interest in the Aqua-Oak Brook Metering Station Easements to fulfill the provisions and purpose of the Contract.

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and in the exercise of their powers and authority under the intergovernmental cooperation provisions of Article VII, Section 10 of the Illinois Constitution of 1970, and other applicable authority, the Commission and the Customer hereby agree as follows:

1. The foregoing recitals are hereby incorporated herein as substantive provisions of this Easement Agreement.
2. The Customer hereby grants, conveys, warrants, and dedicates to the Commission, its successors and assigns, a perpetual easement to construct, furnish, install, own, operate, maintain, test, inspect, remove, repair, and replace the Aqua-Oak Brook Metering Stations at, in, under, and upon the Aqua-Oak Brook Metering Station Easements, together with all reasonable rights of ingress and egress along or across any adjoining lands of, or under the jurisdiction and control of, the Customer. **[The Customer hereby further grants, conveys, warrants, and dedicates to the Commission, its successors and assigns, a non-exclusive perpetual access easement along and across the lands described as the access easement on Exhibit A.]**
3. The Aqua-Oak Brook Metering Stations shall be not located, constructed, or maintained in any manner not in substantial conformity with Exhibit B without the express consent of the Customer, which consent shall not be unreasonably withheld.

4. The Commission shall exercise the easement rights hereby granted with due care, and shall not unreasonably interfere with, damage, or harm any Customer property located upon the Aqua-Oak Brook Metering Station Easement and Customer's adjacent property.
5. All fences, roads, landscaping, and improvements shall be restored to former condition by the Commission if disturbed or altered in any manner by construction or maintenance activities of the Commission.
6. The Customer hereby reserves the right to use the Aqua-Oak Brook Metering Station Easement and its adjacent property in any manner that will not prevent or interfere in any way with the exercise by the Commission of the rights granted hereunder; provided, however, that the Customer shall not in any manner disturb, damage, destroy, injure, obstruct, or permit to be obstructed the Aqua-Oak Brook Metering Stations without the express prior written consent of the Commission; nor shall the Customer permanently or temporarily improve, damage, or obstruct the Aqua-Oak Brook Metering Station **[or the access easement premises]** in any manner that would impair the exercise by the Commission of the rights hereby granted.
7. The Customer agrees to indemnify and defend the Commission with respect to any and all claims of damages to persons or property that may arise directly from the negligence of the Customer, or its agents or employees, in performing any work on the Aqua-Oak Brook Metering Station Easement and Customer's adjacent property in conjunction with its rights pursuant to Paragraph 6 hereof, and, except as otherwise provided in the Contract, the Commission agrees to indemnify and defend the Customer with respect to any and all claims of damages to persons or property that may arise directly from the negligence of the Commission, or its agents or employees, in performing any work on the Aqua-Oak Brook Metering Station Easement and Customer's adjacent property in conjunction with its rights pursuant to Paragraphs 2, 4, and 5 hereof. The Customer shall provide to the Commission, and the Commission shall provide to the Customer, a certificate of insurance or proof of self-insurance coverage as evidence of its continuing ability to meet the obligation established in this Paragraph, and both shall maintain such coverage at all times.
8. The Customer hereby agrees to execute any and all additional documents, approvals, waivers, or consents, if any, that may be reasonably necessary for the Commission to secure any

permits required from any county, state, or federal agency for or in connection with constructing, furnishing, installing, owning, operating, maintaining, testing, inspecting, repairing, removing, or replacing the Aqua-Oak Brook Metering Stations.

9. In the event that the Contract is terminated without renewal with respect to the Customer, the Commission shall, within 90 days, execute and deliver to the Customer an appropriate document evidencing the termination of this Easement Agreement and releasing the permanent easement and access rights hereby granted.

The Commission may, within said 90-day period, at its own expense, and in its own discretion, remove the Aqua-Oak Brook Metering Stations from the Aqua-Oak Brook Metering Station Easements. If the Commission fails to remove the Aqua-Oak Brook Metering Stations, as aforesaid, the Customer may take title to the Aqua-Oak Brook Metering Stations.

10. All rights, title, and privileges herein granted, including all benefits and burdens, shall run with the land and shall be binding upon and inure to the benefit of the parties hereto and their respective grantees, successors, assigns, and legal representatives.

11. All representations and warranties contained herein shall survive the execution of this Easement Agreement and the recordation hereof and shall not be merged.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed by their proper representatives duly authorized to execute the same.

Date: _____

DUPAGE WATER COMMISSION

By: _____

Its: _____

ATTEST:

Its: _____

O-4-22

Date: _____

AQUA ILLINOIS, INC.

By: _____

Its: _____

ATTEST:

Clerk

STATE OF ILLINOIS)

) SS

COUNTY OF COOK)

I, _____, a Notary Public in and for said County, in the State aforesaid, do hereby certify that _____, personally known to me to be the General Manager of the DuPage Water Commission, and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed, sealed, and delivered said instrument as his free and voluntary act, and as the free and voluntary act of said Commission, for the uses and purposes therein set forth.

Given under my hand and official seal this _____ day of 202_.

Notary Public

My Commission Expires:

STATE OF ILLINOIS)

) SS

COUNTY OF _____)

I, _____, a Notary Public in and for said County, in the State aforesaid, do hereby certify that _____, personally known to me to be the _____ of Aqua Company of Illinois, and personally known to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed, sealed, and delivered said instrument as his free and voluntary act, and as the free and voluntary act of said corporation, for the uses and purposes therein set forth.

Given under my hand and official seal this ____ day of 202_.

Notary Public

My Commission Expires:

EXHIBIT F
ILLUSTRATIVE CALCULATION OF SECTION 12(c)(iii) AMOUNT AND PAYMENT

DuPage Water Commission
 Calculation of Capital Cost Recovery Charge as of May 1, 2022
 For Aqua Illinois

| | |
|---|------------------------------|
| Fixed Assets (Audited as of 04-30-2022) | |
| Land | \$ 11,728,902 |
| Infrastructure | 382,985,840 |
| Buildings | 109,045,736 |
| Office Equipment | 4,728,359 |
| Machinery | 26,535,148 |
| Vehicles | 946,092 |
| CIP | <u>2,317,861</u> |
| Total | \$ 538,287,938 |
| Less: Feeder Mains & Meter Stations | <u>94,321,158</u> |
| | 443,966,780 |
| Less: Total Rebates | <u>106,326,287</u> |
| Total | <u><u>\$ 337,640,493</u></u> |

| | | |
|--|----------------------|---|
| | MGD | Total Capital Cost Recovery Charge |
| Aqua Illinois Zones (Avg for 2021) | 0.510 | 0.699% \$ <u><u>2,360,107</u></u> |
| DuPage Water Commission (CY2020-CY2021 Avg)* | <u>72.510</u> | |
| Total | <u><u>73.020</u></u> | |

*Less Aqua Illinois zones purchase areas from Oak Brook amounts

CONTRACT MILESTONES IN BOLD FONT
(TARGET CONTRACT MILESTONES UNLESS OTHERWISE APPROVED)

EXHIBIT G
ILLUSTRATIVE SCHEDULE OF EVENTS

| AQUA, ILLINOIS DUTIES | CUSTOMER CONTRACT APPROVED (EFFECTIVE DATE) | WEEKS | | | | | | | | | | | | | | |
|-----------------------|--|-------|---|---|----|----|----|----|----|----|--|--|--|--|--|--|
| | | 0 | 4 | 8 | 12 | 16 | 20 | 24 | 28 | 32 | | | | | | |
| | ICC APPROVAL | | | | | | | | | | | | | | | |
| | ACQUIRE ALL PROPERTY INTERESTS FOR AQUA AND DWC | | | | | | | | | | | | | | | |
| | DESIGN INTERIM AQUA-OAK BROOK CONNECTION FACILITIES | | | | | | | | | | | | | | | |
| | CONSTRUCT INTERIM AQUA-OAK BROOK CONNECTION FACILITIES | | | | | | | | | | | | | | | |
| | OPERATE INTERIM AQUA-OAK BROOK CONNECTION FACILITIES (120 DAYS AFTER INTERIM AGREEMENT SIGNED) | | | | | | | | | | | | | | | |
| | 10.A - DESIGN PERMANENT AQUA CONNECTION FACILITIES | | | | | | | | | | | | | | | |
| | 10.B - IEPA APPROVALS | | | | | | | | | | | | | | | |
| | 10.C - CONSTRUCT PERMANENT AQUA CONNECTION FACILITIES | | | | | | | | | | | | | | | |
| | 10.D - DESIGN WATER STORAGE FACILITIES | | | | | | | | | | | | | | | |
| | 10.E - IEPA APPROVALS | | | | | | | | | | | | | | | |
| | 10.F - CONSTRUCT WATER STORAGE FACILITIES | | | | | | | | | | | | | | | |
| | DWC APPROVALS | | | | | | | | | | | | | | | |
| | DWC DUTIES | | | | | | | | | | | | | | | |
| | 10.G - APPROVE OF PROPERTY INTERESTS | | | | | | | | | | | | | | | |
| | DESIGN COMMISSION CONNECTION FACILITIES | | | | | | | | | | | | | | | |
| | IEPA APPROVALS | | | | | | | | | | | | | | | |
| | 10.H - CONSTRUCT COMMISSION CONNECTION FACILITIES | | | | | | | | | | | | | | | |
| | IEPA APPROVALS | | | | | | | | | | | | | | | |
| | OTHER EVENTS | | | | | | | | | | | | | | | |
| | PAYMENT OF CAPITAL RISK RECOVERY CHARGES (BUY-IN) | | | | | | | | | | | | | | | |
| | DELIVERY OF WATER THROUGH PERMANENT CONNECTIONS | | | | | | | | | | | | | | | |
| | PAYMENT OF COSTS OR FIRST WATER BILLING CYCLE | | | | | | | | | | | | | | | |

CONTRACT MILESTONES IN BOLD FONT
(TARGET CONTRACT MILESTONES UNLESS OTHERWISE APPROVED)

EXHIBIT G
ILLUSTRATIVE SCHEDULE OF EVENTS

| | 36 | 40 | 44 | 48 | 52 | 56 | 60 | 64 | 68 |
|--|----|----|----|----|----|----|----|----|----|
| AQUA ILLINOIS DUTIES | | | | | | | | | |
| CUSTOMER CONTRACT APPROVED (EFFECTIVE DATE) | | | | | | | | | |
| ACQUIRE ALL PROPERTY INTERESTS FOR AQUA AND DWG | | | | | | | | | |
| DESIGN INTERIM AQUA-OAK BROOK CONNECTION FACILITIES | | | | | | | | | |
| CONSTRUCT INTERIM AQUA-OAK BROOK CONNECTION FACILITIES | | | | | | | | | |
| OPERATE INTERIM AQUA-OAK BROOK CONNECTION FACILITIES (120 DAYS AFTER INTERIM AGREEMENT SIGNED) | | | | | | | | | |
| 10.A - DESIGN PERMANENT AQUA CONNECTION FACILITIES | | | | | | | | | |
| 10.B - IEPA APPROVALS | | | | | | | | | |
| 10.C - CONSTRUCT PERMANENT AQUA CONNECTION FACILITIES | | | | | | | | | |
| 10.D - DESIGN WATER STORAGE FACILITIES | | | | | | | | | |
| 10.E - IEPA APPROVALS | | | | | | | | | |
| 10.F - CONSTRUCT WATER STORAGE FACILITIES | | | | | | | | | |
| DWC APPROVALS | | | | | | | | | |
| DWC DUTIES | | | | | | | | | |
| 10.G - APPROVE OF PROPERTY INTERESTS | | | | | | | | | |
| DESIGN COMMISSION CONNECTION FACILITIES | | | | | | | | | |
| 10.H - CONSTRUCT COMMISSION CONNECTION FACILITIES | | | | | | | | | |
| IEPA APPROVALS | | | | | | | | | |
| OTHER EVENTS | | | | | | | | | |
| PAYMENT OF CAPITAL RISK RECOVERY CHARGES (BUY-IN) | | | | | | | | | |
| DELIVERY OF WATER THROUGH PERMANENT CONNECTIONS | | | | | | | | | |
| PAYMENT OF COSTS OR FIRST WATER BILLING CYCLE | | | | | | | | | |

CONTRACT MILESTONES IN BOLD FONT
 (TARGET CONTRACT MILESTONES UNLESS OTHERWISE APPROVED)

EXHIBIT G
 ILLUSTRATIVE SCHEDULE OF EVENTS

| CUSTOMER CONTRACT APPROVED (EFFECTIVE DATE) | 72 | 76 | 80 | 84 | 88 | 92 | 96 | 100 | 104 |
|--|----|----|----|----|----|----|----|-----|-----|
| AQUA ILLINOIS DUTIES | | | | | | | | | |
| ICC APPROVAL | | | | | | | | | |
| ACQUIRE ALL PROPERTY INTERESTS FOR AQUA AND DMC | | | | | | | | | |
| DESIGN INTERIM AQUA-OAK BROOK CONNECTION FACILITIES | | | | | | | | | |
| IEPA APPROVALS | | | | | | | | | |
| CONSTRUCT INTERIM AQUA-OAK BROOK CONNECTION FACILITIES | | | | | | | | | |
| IEPA APPROVALS | | | | | | | | | |
| OPERATE INTERIM AQUA-OAK BROOK CONNECTION FACILITIES (120 DAYS AFTER INTERIM AGREEMENT SIGNED) | | | | | | | | | |
| 10.A - DESIGN PERMANENT AQUA CONNECTION FACILITIES | | | | | | | | | |
| 10.B - IEPA APPROVALS | | | | | | | | | |
| 10.C - CONSTRUCT PERMANENT AQUA CONNECTION FACILITIES | | | | | | | | | |
| IEPA APPROVALS | | | | | | | | | |
| 10.D - DESIGN WATER STORAGE FACILITIES | | | | | | | | | |
| 10.E - IEPA APPROVALS | | | | | | | | | |
| 10.F - CONSTRUCT WATER STORAGE FACILITIES | | | | | | | | | |
| IEPA APPROVALS | | | | | | | | | |
| DMC APPROVALS | | | | | | | | | |
| DMC DUTIES | | | | | | | | | |
| 10.G - APPROVE OF PROPERTY INTERESTS | | | | | | | | | |
| DESIGN COMMISSION CONNECTION FACILITIES | | | | | | | | | |
| IEPA APPROVALS | | | | | | | | | |
| 10.H - CONSTRUCT COMMISSION CONNECTION FACILITIES | | | | | | | | | |
| IEPA APPROVALS | | | | | | | | | |
| OTHER EVENTS | | | | | | | | | |
| PAYMENT OF CAPITAL RISK RECOVERY CHARGES (BUY-IN) | | | | | | | | | |
| DELIVERY OF WATER THROUGH PERMANENT CONNECTIONS | | | | | | | | | |
| PAYMENT OF COSTS OR FIRST WATER BILLING CYCLE | | | | | | | | | |

CONTRACT MILESTONES IN BOLD FONT
(TARGET CONTRACT MILESTONES UNLESS OTHERWISE APPROVED)

EXHIBIT G
ILLUSTRATIVE SCHEDULE OF EVENTS

| CUSTOMER CONTRACT APPROVED (EFFECTIVE DATE) | 108 | 112 | 116 | 120 | 124 | 128 | 132 | 136 | 140 |
|--|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| AQUA ILLINOIS DUTIES | | | | | | | | | |
| OPERATE INTERIM AQUA-OAK BROOK CONNECTION FACILITIES (150 DAYS AFTER INTERIM AGREEMENT SIGNED) | | | | | | | | | |
| 10.A - DESIGN PERMANENT AQUA CONNECTION FACILITIES | | | | | | | | | |
| 10.B - IEPA APPROVALS | | | | | | | | | |
| IEPA APPROVALS | | | | | | | | | |
| 10.C - CONSTRUCT PERMANENT AQUA CONNECTION FACILITIES | | | | | | | | | |
| 10.D - DESIGN WATER STORAGE FACILITIES | | | | | | | | | |
| IEPA APPROVALS | | | | | | | | | |
| 10.E - IEPA APPROVALS | | | | | | | | | |
| IEPA APPROVALS | | | | | | | | | |
| 10.F - CONSTRUCT WATER STORAGE FACILITIES | | | | | | | | | |
| IEPA APPROVALS | | | | | | | | | |
| DWC APPROVALS | | | | | | | | | |
| DWC DUTIES | | | | | | | | | |
| 10.G - APPROVE OF PROPERTY INTERESTS | | | | | | | | | |
| DESIGN COMMISSION CONNECTION FACILITIES | | | | | | | | | |
| IEPA APPROVALS | | | | | | | | | |
| 10.H - CONSTRUCT COMMISSION CONNECTION FACILITIES | | | | | | | | | |
| IEPA APPROVALS | | | | | | | | | |
| OTHER EVENTS | | | | | | | | | |
| PAYMENT OF CAPITAL RISK RECOVERY CHARGES (BUY-IN) | | | | | | | | | |
| DELIVERY OF WATER THROUGH PERMANENT CONNECTIONS | | | | | | | | | |
| PAYMENT OF COSTS OR FIRST WATER BILLING CYCLE | | | | | | | | | |

CONTRACT MILESTONES IN BOLD FONT
 (TARGET CONTRACT MILESTONES UNLESS OTHERWISE APPROVED)

EXHIBIT G
 ILLUSTRATIVE SCHEDULE OF EVENTS

| CUSTOMER CONTRACT APPROVED (EFFECTIVE DATE) | WEEKS | | | | | FIRST BILLING OR EARLIER IF COMPLETION OF CONSTRUCTION |
|--|-------|-----|-----|-----|-----|---|
| | 144 | 148 | 152 | 156 | 160 | |
| AQUA ILLINOIS DUTIES | | | | | | |
| ICC APPROVAL | | | | | | |
| ACQUIRE ALL PROPERTY INTERESTS FOR AQUA AND DW/C | | | | | | |
| DESIGN INTERIM AQUA-OAK BROOK CONNECTION FACILITIES | | | | | | |
| IEPA APPROVALS | | | | | | |
| CONSTRUCT INTERIM AQUA-OAK BROOK CONNECTION FACILITIES | | | | | | |
| IEPA APPROVALS | | | | | | |
| OPERATE INTERIM AQUA-OAK BROOK CONNECTION FACILITIES (120 DAYS AFTER INTERIM AGREEMENT SIGNED) | | | | | | |
| 10.A - DESIGN PERMANENT AQUA CONNECTION FACILITIES | | | | | | |
| 10.B - IEPA APPROVALS | | | | | | |
| 10.C - CONSTRUCT PERMANENT AQUA CONNECTION FACILITIES | | | | | | |
| IEPA APPROVALS | | | | | | |
| 10.D - DESIGN WATER STORAGE FACILITIES | | | | | | |
| 10.E - IEPA APPROVALS | | | | | | |
| 10.F - CONSTRUCT WATER STORAGE FACILITIES | | | | | | |
| IEPA APPROVALS | | | | | | |
| DWC APPROVALS | | | | | | |
| DWC DUTIES | | | | | | |
| 10.G - APPROVE OF PROPERTY INTERESTS | | | | | | |
| DESIGN COMMISSION CONNECTION FACILITIES | | | | | | |
| IEPA APPROVALS | | | | | | |
| 10.H - CONSTRUCT COMMISSION CONNECTION FACILITIES | | | | | | |
| IEPA APPROVALS | | | | | | |
| OTHER EVENTS | | | | | | |
| PAYMENT OF CAPITAL RISK RECOVERY CHARGES (BUY-IN) | | | | | | |
| DELIVERY OF WATER THROUGH PERMANENT CONNECTIONS | | | | | | |
| PAYMENT OF COSTS OR FIRST WATER BILLING CYCLE | | | | | | |

O-4-22

EXHIBIT 2

INTERIM DELIVERY AGREEMENT

EXHIBIT 2

INTERIM DELIVERY AGREEMENT
AMONG THE VILLAGE OF OAK BROOK AND AQUA ILLINOIS, INC

This Interim Delivery Agreement (the “Agreement”), dated as of _____, 2022, by and between the VILLAGE OF OAK BROOK, a municipal corporation of the State of Illinois existing by virtue of its creation consistent with the Illinois Municipal Code set forth in 65 ILCS 5/1-1-1 *et seq.* (the “Village”), and AQUA ILLINOIS, INC, an Illinois Corporation (“Aqua”), a public utility regulated by the Illinois Commerce Commission within the meaning of Section 3-105 of the Public Utilities Act, 220 ILCS 511-101 *et seq.* DUPAGE WATER COMMISSION, DuPage, Cook, and Will Counties, State of Illinois, a county water commission and public corporation under Division 135 of Article 11 of the Illinois Municipal Code, 65 ILCS 5/11-135-1 *et seq.*, and the Water Commission Act of 1985, 70 ILCS 3720/0.01 *et seq.* (the “Commission”), is a signatory to this Agreement as to form approving the arrangement pursuant to Subsection 4B and 4C of the Aqua Customer Contract for the Alternate Delivery of Lake Water dated _____, 2022 (the “Aqua Customer Contract”) and as an intended third party beneficiary of this Agreement.

WITNESSETH:

WHEREAS, the Commission owns and maintains a transmission and distribution system as a supplier of potable water to member customers that contract for such service (“Commission’s Waterworks System”); and

WHEREAS, in 1986, the Village entered into a Water Purchase and Sale Contract (the “Charter Customer Contract”) with the Commission and is a charter customer of the Commission; and

WHEREAS, the Village owns and operates a water distribution system, which system is supplied with Lake Michigan (the “Lake”) water by the Commission pursuant to the terms of the Charter Customer Contract; and

WHEREAS, Aqua is a public utility that furnishes water service to the public in various service territories throughout Illinois; and

EXHIBIT 2

WHEREAS, Aqua and the Village have entered into that certain Asset Purchase Agreement dated April 27, 2021 (the “APA”) pursuant to which Aqua is acquiring certain assets owned by the Village and used solely in connection with the water distribution services provided to customers outside the boundaries of the Village located in non-contiguous areas to one another and separate zones of service both inside and outside the boundaries of the Village. A map showing the service areas of the water system to be acquired by Aqua is attached hereto and incorporated here as Exhibit A (the “Aqua System”); and

WHEREAS, Aqua and the Commission have entered, or will simultaneous with the closing of the APA transaction, enter into the Aqua Customer Contract; and

WHEREAS, the Village will continue to own and operate its water distribution system serving the incorporated areas of the Village (the “Village System”) and remain a customer of the Commission for the Village System; and

WHEREAS, the Aqua System currently serves five discrete and non-contiguous service areas, referred to as Unincorporated Oak Brook Zones (“Aqua System Zones”); and

WHEREAS, the Aqua System Zones are adjacent to the Village System and will remain hydraulically connected, for an interim period, after Closing and the Village System is currently serving and capable of serving the Aqua System Zones with water from the Commission's Waterworks System through the Village System; and

WHEREAS, Aqua and the Village desire to enter into a water transmission and delivery agreement for the delivery of water from the Village’s System to the Aqua System Zones (“Wheeling”), for an interim period, in the form of this Agreement; and

WHEREAS, Aqua shall, in a phased approach, make a direct connection to the Commission’s Waterworks System or provide for an alternate provider for transmission of Water, within the term of this Agreement, such that the Aqua System will no longer be served by the Village (“Alternate Transmission Connection”), and thereafter the Aqua water requirements for such Aqua System Zone shall no longer obtain Lake water through the Village System and such water shall not be subject to this Agreement; and

EXHIBIT 2

NOW, THEREFORE, in consideration of the foregoing recitals and of the mutual covenants and agreements herein contained, Aqua, the Village (and the Commission to the extent stated herein) hereby agree as follows:

Section 1. Agreement to Deliver. Effective upon Closing and throughout the Term of this Agreement, subject to the terms hereof, the Village agrees to transmit and deliver water from the Commission through the Village System to the portions of the Aqua System serving the Aqua System Zones, subject to availability of such water from the Commission. Subject to the terms and conditions of this Agreement, the Village will deliver the full water supply to the portion of the Aqua System serving the Aqua System Zones through existing interconnection points currently serving the Aqua System Zones at the time of execution of this Agreement. The interconnections points between the Village System and the Aqua System Zones (“Interconnections”) as shown on Exhibit _____. Notwithstanding any requirement of the Aqua Customer Contract to the contrary, title to all water supplied by the Commission shall remain in the Commission to the point of delivery to the Village System and thereupon shall pass to the Village and Aqua as their interests may appear.

Section 2. Interconnection.

A. The Interconnections are those currently existing Interconnections between the Village System and the Aqua System shown on Exhibit _____. Nothing herein shall prohibit Aqua or the Commission, from establishing an Alternate Transmission Connection to the Commission's Waterworks System, at Aqua's sole cost, subject to Commission approval.

B. Aqua System Zones / Interconnection to Village.

Aqua shall, when necessary, further design, construct, operate, maintain, and replace the Interconnections to the extent such are necessary for obtaining water from the Village. Subject to normal operating constraints, adequate delivery and pressure of the supply of water delivered to Village, Village will supply water at the Delivery Points at a reasonably constant pressure.

C. Alternate Transmission Connection. Within the term of this Agreement, Aqua shall make direct connection in a phased approach to the Commission's Waterworks System or

EXHIBIT 2

provide for an Alternate Transmission Connection such that the Aqua System will no longer be served by the Village. Aqua shall be responsible for all construction and costs associated with the Alternate Transmission Connection. At the time of completion of all Alternate Transmission Connections such that all the Aqua Zones will be directly supplied by the Alternate Transmission Facilities, this Agreement shall terminate, except that nothing herein shall prohibit the parties continuing the physical interconnection of the existing connection points with proper shut off and backflow as emergency interconnection points, subject to a separate emergency intercommunication agreement. Unless otherwise agreed, neither the Commission nor the Village shall be required to construct or fund any connection to the Commission's Waterworks System to the Aqua System serving the Aqua System Zones. All design and construction plans and specifications for such Alternate Transmission Connection shall require the written approvals of the Commission before commencement of any construction.

Village agrees and hereby grants to Aqua the right to use any Right of Way to lay and repair any pipe, main or facilities in the Village reasonably necessary to make such Direct Connection, subject to generally applicable permitting requirements of the Village.

Section 3. Metering / Station Access. Within one hundred and twenty (120) days of the Closing of the APA, Aqua shall install Magnetic Flow Meters at the Interconnections as shown on Exhibit "B". Aqua shall provide access to the Magnetic Flow Meters to the Village at reasonable times for purposes of examination and inspection, but the readings of each meter for billing purposes, calibration, and adjustment of the equipment therein shall be done only by the employees or agents of Aqua.

Section 4. Meter Readings. Aqua shall read the Magnetic Flow Meters at the Interconnection ("Magnetic Flow Meters") on a monthly basis corresponding to the Commission readings for the Village System and shall provide the Village with copies of the readings. Such readings shall establish the volume of water from the Village to the Aqua System (the "Aqua System Volume"). Prior to any installation of Magnetic Flow Meters at the Interconnections herein, the metered volume of water used by Aqua for the Aqua System shall be determined by aggregating all the end user meter data of the customers of the Aqua System and adding ten percent of such aggregate total for a water loss allocation; provided that the Village and Aqua shall negotiate in

EXHIBIT 2

good faith an increase in the water loss allocation in the event of any material main break or other event or condition reasonably likely to cause a material increase in water loss within the Aqua System.

Section 5. Prices; Terms of Payment.

A. Aqua's Payments to the Village.

Aqua shall pay the Village on monthly basis based on the volume of water determined by the meter readings in Section 4 at the same volumetric rate the Village pays the Commission plus the Wheeling Rate set out in Subsection 5C.

In order to determine the Aqua System Volume, Aqua shall provide to the Village a report showing the volume of metered water passing through the end user customers of the Aqua System on a monthly basis until installation of the Magnetic Flow Meters at the Interconnections. Such report shall show an aggregate amount of volume in total, for each Aqua System Zone and for each individual meter.

Aqua shall allow the Village to audit all Magnetic Flow Meter readings, end user customer volume reports or any other reports, readings or data used to determine Aqua System Volume, including, upon reasonable advance notice by the Village to Aqua, allowing access to any Magnetic Flow Meters for physical inspection by the Village's representatives.

B. Village's Payments to the Commission.

The Village shall make all required payments to the Commission in accordance with the terms of the Village Customer Contract without any deduction for the volume of water delivered to the Aqua System.

C. Village Wheeling Rate.

Village will charge Aqua a wheeling rate based on the below percentage times the charges by DWC to Aqua for the amount of water subject to such Wheeling charge based upon Aqua

EXHIBIT 2

System Volume (not to include any taxes, capital charges or other charges not directly based on the Aqua System Volume):

- a. Years 1-2 2%
- b. Years 3-4 5%
- c. Years 5-6 10%
- d. Years 7-8 15%
- e. Years 9-through term of Agreement 20%

Section 6. Water Storage Capacity.

The Village shall maintain, during the entire term of this Agreement and any renewal or extension of it, effective water storage capacity equal to the water storage capacity required by the Charter Customer Contract for the Village System.

Section 7. Water Allocation Permit Operation.

A. The Village currently serves water to the Aqua System Zones pursuant to that certain Allocation Permit No. 2009-142 (“Village Permit”) issued by the Illinois Department of Natural Resources (“IDNR”) under 17 Ill. Adm. Code 3730, *Allocation of Water from Lake Michigan* (“Allocation Regulations”). Upon Closing, the Village shall continue to provide water to the Aqua System Zones pursuant to the Village Permit.

B. Within two (2) years after Closing, Aqua shall use data collected by the Magnetic Flow Meters to apply to the IDNR for issuance of allocation permits under the Allocation Regulations for the Aqua System Zones which are independent of the Village Permit (“Aqua System Permits”). The applications for the Aqua System Permits shall be based on metered usage data for the Aqua System Zones and shall include only such amount as is attributable to such Aqua System Zones pursuant to the Allocation Regulations. Upon Aqua’s submittal of any such request, the Village agrees to file with the IDNR separate modification applications that are necessary to reflect a corresponding reduction in the allocation allowed by the Village Permit.

EXHIBIT 2

C. Until the IDNR's issuance of the Aqua System Permits, the Village, as the named permittee of the Village Permit:

1. shall continue to be responsible to comply with all legal and regulatory requirements of the Village Permit and the Allocation Regulations that are applicable to the Aqua System Zones; and
2. shall continue to be responsible for, and submit to, the IDNR all required LMO-2 data on an annual basis, as required by the Village Permit then in effect.

D. Aqua shall indemnify and hold harmless the Village pursuant to subsections 9(E) and 9(F) for any non-compliance with the Village Permit or the Allocation Regulations that is caused by or attributable to the Aqua System Zones and for any reporting violation attributable to Aqua's failure to provide requested existing data for the LMO-2 data reports to the IDNR.

E. Aqua shall provide to the Village, when requested, all usage and water loss information for the Aqua System Zones necessary to complete the LMO-2 data reports to the IDNR.

F. Aqua shall provide the Village a license to access portions of the Aqua System Zones that are reasonably necessary for the Village to comply with its obligations pursuant to subsection (C) hereof, and the Village agrees to coordinate such access with Aqua.

Section 8. Limitations on Supply of Water.

A. Curtailment. If at any time it becomes necessary for the Commission to limit generally its delivery of Lake water to its customers for any reason, then the Village and Aqua together shall take all reasonable and appropriate actions to provide that such Lake water as is delivered by the Commission is shared by the Village and Aqua on a pro rata basis.

B. Limitation on Supply to Village. If at any time it becomes necessary for the Commission to limit its delivery of Lake water to the Village System (but not to the Aqua System) for any reason pursuant to the Charter Customer Contract and specifically related to the Village, then the Village shall take all reasonable and appropriate actions, including without limitation the imposition of water use limitations on customers of the Village System, to limit the use of Lake water in the Village System so that the Lake water to which the portion of the Aqua System serving

EXHIBIT 2

the Aqua System Zones is entitled is delivered by the Village to the Aqua System Zones Connection Facilities.

C. Limitation on Supply to Aqua. If at any time it becomes necessary for the Commission to limit its delivery of Lake water to the Aqua System (but not to the Village System) for any reason specifically related to Aqua, then Aqua shall take all reasonable and appropriate actions, including without limitation the imposition of water use limitations on customers of the Aqua System, and the Village shall, and shall be entitled to, make all necessary and appropriate adjustments to the Village System, to assure that the appropriate amount of Lake water to which the Village System is entitled is delivered to the Village System during such period of curtailment to Aqua.

D. No Liability of Commission. Aqua and the Village each hereby acknowledge and agree that the Commission shall not be obligated to enforce the provisions of this Section 7 but may do so in its sole discretion and that the Commission shall not be liable either to Aqua or to the Village for any damages occasioned by or in any way related to any limitation on, or delay in, the delivery of Lake water to them or to either one of them.

Section 9. Releases and Indemnification.

A. Indemnification of the Commission by Aqua. To the fullest extent permitted by law, Aqua hereby releases the Commission, and its respective officers, agents and employees, from and agrees that the Commission, and its respective officers, agents and employees, shall not be liable for, and agree to indemnify and hold the Commission, and its respective officers, agents and employees, harmless from: (1) any liabilities for any loss or damage to property or any injury to, or death of, any person that may be occasioned by or related to any cause whatsoever pertaining to the construction, installation, removal, relocation, replacement, extension, improvement, maintenance, or operation of the Aqua System or the Alternate Connection Facilities, (2) any liabilities, losses, or damages, or claims therefor, arising out of the failure, or claimed failure, of Aqua to comply with its covenants or obligations contained in this Agreement, or (3) the failure to supply Lake Water or for any interruption of the Lake Water supply, including, in each such case, any attorneys' fees.

EXHIBIT 2

B. Indemnification of the Commission by the Village. To the fullest extent permitted by law, the Village hereby releases the Commission and its respective officers, agents and employees from, and agrees that the Commission and its respective officers, agents and employees shall not be liable for, and agrees to indemnify and hold the Commission and its respective officers, agents and employees harmless from (1) any liabilities, losses, or damages, or claims therefor, arising out of the failure, or claimed failure, of the Village to comply with its covenants or obligations contained in this Agreement, and (2) the failure of the Village to supply Lake Water to Aqua or any interruption of the Lake Water supply to Aqua, in either case caused by the Village, including, in the case of clauses (1) and (2), attorneys' fees.

C. Indemnification of the Commission by Aqua and the Village. Aqua and the Village agree to indemnify and hold the Commission, and its respective officers, agents and employees, harmless to the fullest extent permitted by law from any losses, costs, charges, expenses (including attorneys' fees), judgments, and liabilities incurred by the Commission, and its respective officers, agents and employees, in connection with any action, suit, or proceeding instituted or threatened by any third party in connection with this Agreement.

D. Indemnification Claims Made by the Commission. If any such claim provided for in subsections (A), (B) or (C), is asserted, the Commission shall give prompt notice to Aqua or the Village or both, as applicable, and Aqua or the Village or both, as applicable, if requested by the Commission, shall assume the defense thereof, it being understood, however, that neither Aqua nor the Village shall settle or consent to the settlement of any such claim without the written consent of the Commission. In connection with any such claims, litigation or liabilities, the Commission and its respective officers, agents, employees, representatives and assigns shall have the right to defense counsel of their choice. Aqua and the Village, as applicable, shall be solely liable for all costs of such defense and for all expenses, fees, judgments, settlements and all other costs arising out of such claims, litigation, or liabilities. Aqua and the Village, as applicable, shall have the right to participate in the defense of any such claim, or litigation and, upon the request of the Commission as stated above, shall assume the defense of the Commission, and its respective officers, agents and employees.

EXHIBIT 2

E. Indemnification of the Village by Aqua. Other than in the case of intentional misconduct by the Village, Aqua hereby releases and holds harmless the Village, and its respective officers, agents and employees, from, and agrees that the Village, its respective officers, agents or employees, shall not be liable for, any damages resulting from failure to supply Lake water or for any interruption of the Lake water supply to the fullest extent allowed by law; provided that the foregoing shall not excuse the Village from using its good faith efforts to comply with its respective obligations pursuant to Section 1 of this Agreement. Aqua hereby agrees to indemnify, save, and hold harmless the Village, and its respective officers, agents and employees, from and against all claims, litigation, and liability, including legal defense costs and expenses and attorneys' fees, asserted against the Village, or any of its respective officers, agents or employees, from any liabilities for any loss or damage to property or any injury to, or death of, any person that may be occasioned by or related to any cause whatsoever pertaining to the construction, installation, removal, relocation, replacement, extension, improvement, maintenance, or operation of the Aqua System or the Alternate Connection Facilities to the fullest extent allowed by law.

F. Indemnification Claims Made by the Village. If any such claim provided for in subsection (E), is asserted, the Village shall give prompt notice to Aqua and Aqua, if requested by the Village, shall assume the defense thereof, it being understood, however, Aqua shall not settle or consent to the settlement of any such claim without the written consent of the Village. In connection with any such claims, litigation or liabilities, the Village and its respective officers, agents, employees, representatives and assigns shall have the right to defense counsel of their choice. Aqua shall be solely liable for all costs of such defense and for all expenses, fees, judgments, settlements and all other costs arising out of such claims, litigation, or liabilities. Aqua shall have the right to participate in the defense of any such claim, or litigation and, upon the request of the Village, as stated above, shall assume the defense of the Village, as well as its respective officers, agents, employees, representatives and assigns.

Section 10. Interpretation: Compliance with Existing Contracts. This Agreement shall be deemed to be a separate written contract between the Village and Aqua required by Subsection 4C of the Aqua Customer Contract. Except where expressly provided in this Agreement, nothing in this Agreement shall be construed to be, or applied in any manner, inconsistent with the terms

EXHIBIT 2

of the Charter Customer Contract or the Aqua Customer Contract, and if there is any conflict or inconsistency between the terms of this Agreement and the terms of either one or both of those Contracts, then the terms of those Contracts shall control.

The Village shall at all times comply with all terms and conditions of this Agreement and the Charter Customer Contract, and Aqua shall at all times comply with all terms and conditions of this Agreement and the Aqua Customer Contract, including without limitation the making of all payments due thereunder or hereunder promptly to the Commission and the development of the Aqua System Zones Connection Facilities in accordance with the timetable established therein. Under no circumstances shall any dispute of any nature under this Agreement or Aqua's inability to receive water through the Interconnection provided by this Agreement, excuse, delay, or in any other way affect the Village's or Aqua's performances under such Contracts or this Agreement, including without limitation the making of all such payments.

Section 11. Term. Subject to the receipt of a water allocation for the portion of the Aqua System serving the Aqua System Zones, the term of this Agreement shall be from the date first above written until the sooner of:

- (a) ten (10) years; or
- (b) upon notice by Aqua to the Village that Alternate Transmission Connection of all of the Aqua System Zones as stated in Section 2 has been completed.

Section 12. Governing Law. This Agreement shall be construed exclusively under the applicable laws of, but not the conflict of law rules of, the State of Illinois.

Section 13. Amendment. This Agreement shall not be modified, revised, amended, or annulled in any way except in writing approved by all parties hereto.

Section 14. Notices. All notices or communications provided for herein shall be in writing and shall be delivered in person or by certified United States mail, return receipt requested, postage prepaid, addressed as follows:

To the Village:

EXHIBIT 2

Village Manager
Village of Oak Brook
1200 Oak Brook Road
Oak Brook, Illinois 60523

To Aqua:

Aqua Illinois, Inc.
President
1000 S. Schuyler Avenue
Kankakee, IL 60901

To the Commission:

General Manager
DuPage Water Commission
600 East Butterfield Road
Elmhurst, IL 60126

until and unless other addresses are specified by notice given in accordance herewith.

Section 15. Legal Authority. Each party represents and warrants to the others that it has full legal authority to enter this Agreement; that the officers and representatives signing this Agreement have been duly authorized to sign by their respective party; that entering this Agreement will not conflict with or violate the terms of any other agreement or obligation to which each respective party hereto is obligated or bound.

Section 16. Regulatory Approval. This Agreement is subject to all governmental authorizations needed for, including, but not necessarily limited to, adoption and approval from Illinois Commerce Commission.

Section 17. Cooperation. The parties agree to cooperate with each other and to use commercially reasonable efforts in the implementation of this Agreement, and to sign or cause to be signed, in a timely fashion, any and all necessary instruments, documents and petitions, and to take such other actions as may be reasonably necessary in order to effectuate the purposes of this Agreement.

Section 18. Execution in Counterparts. This Agreement may be executed in any number of counterparts (including by means of email or other electronic signature), each of which shall be deemed to be an original, but all of which together shall constitute but one and the same instrument.

EXHIBIT 2

Execution and delivery by facsimile or in any electronic (i.e., “pdf” or “tif”) format shall be effective as delivery of a manually executed counterpart of this Agreement. To the extent applicable, the foregoing constitutes the election of the parties to invoke any applicable law authorizing electronic signatures.

Section 19. Third-Party Beneficiary. For all purposes of this Agreement, the Commission shall be expressly deemed an intended third-party beneficiary of this Agreement, and as such shall be entitled to rely upon and shall have the express right to enforce the terms and conditions of this Agreement to the extent it affects the Commission. Further, this Agreement may not be modified, amended or terminated without the consent of the Commission in its sole discretion.

[Remainder of page intentionally left blank]

O-4-22

EXHIBIT 2

IN WITNESS WHEREOF, the Village and Aqua have caused this Agreement to be properly signed and attested to by their respective officers, and their seals affixed hereto, all as of the day and date first hereinabove set forth.

VILLAGE OF OAK BROOK

By:

Name: [●]

Title: [●]

(Corporate Seal)

ATTEST:

Village Clerk

O-4-22

EXHIBIT 2

AQUA ILLINOIS, INC

By:

Name: [●]

Title: [●]

O-4-22

EXHIBIT 2

Approved as to form approving the arrangement pursuant to Subsection 4C of the Aqua Customer Contract and as an intended third-party beneficiary of this Agreement pursuant to Section 19.

DUPAGE WATER COMMISSION

By: _____

James Zay

Chairman

(Corporate Seal)

ATTEST:

Danna Mundall

Clerk

EXHIBIT 1
 OAK BROOK UNIT SYSTEM
 AQUA-OAK BROOK TRANSFER ZONES
 INTERIM AQUA-OAK BROOK INTERCONNECTIONS

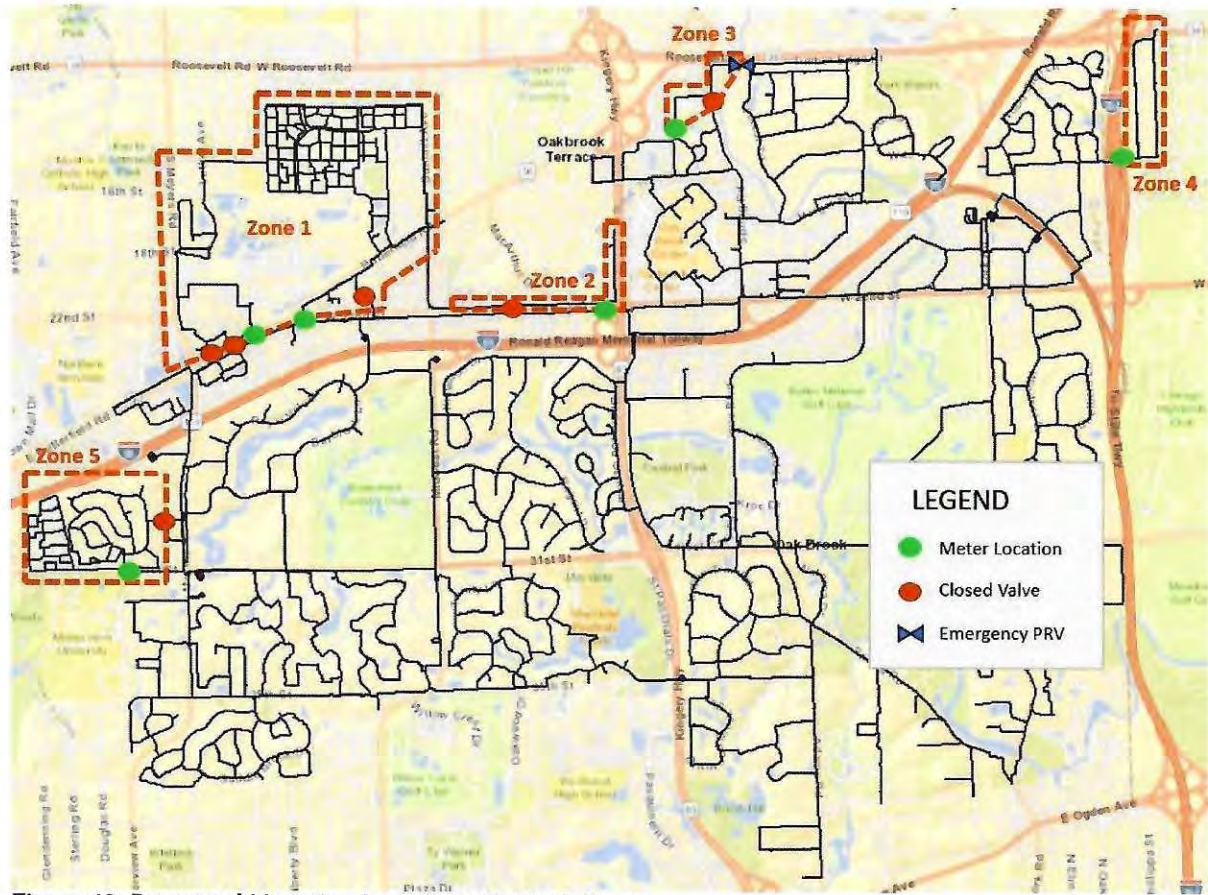


Figure 12: Proposed Metering Locations for Each Zone



Resolution #: R-68-22

Account: 01-60-612200

Approvals: *Author / Manager / Finance / Admin*

DM - CAP PDM

REQUEST FOR BOARD ACTION

Date: 11/10/2022

Description: **A Resolution approving employee insurance benefits for plan year beginning January 1, 2023 and ending December 31, 2023**

Agenda Section: Administration Committee

Originating Department: General Manager's Office

A Resolution Approving Employee Insurance Benefits for Plan Year beginning January 1, 2023 and ending December 31, 2023

Recommended Motion:

The Commission annually determines employee insurance benefits to be provided and which commence January 1st of each year.

In consultation with Dato Pistorio Financial Group, Inc., staff is recommending that the Commission continue providing medical coverage through its current carrier, Blue Cross Blue Shield (BCBS), and continue paying 80 percent of the premiums for eligible employees' coverage and for eligible employees' dependent coverage.

Staff is recommending that employees will be able to choose from the same four ACA Metallic Alternate Health Plans as the prior year. The Blue Platinum PPO Plan (P503PPO), Blue Gold HSA Plan (G533PPO), Blue Choice Preferred PPO Plan (G530BCE) and the Blue Precision HMO Plan (P506PSN).

With respect to Vision, Dental and Life Insurance, staff is recommending that coverage continue to be with MetLife.

Staff is recommending that the Commission contribute the same amounts to the Health Savings Accounts as was contributed the prior year. For employees that elect self-only coverage under the Blue Cross Blue Shield HSA-Qualified High Deductible Health Plan, the Commission shall contribute, via electronic funds transfer, the sum of \$2,700.00. For employees that elect employee and spouse/child (employee + 1) coverage under the Blue Cross Blue Shield HSA-Qualified High Deductible

Health Plan, the Commission shall contribute, via electronic funds transfer, the sum of \$4,500.00. For employees that elect family (employee + 2 or more) coverage under the Blue Cross Blue Shield HSA-Qualified High Deductible Health Plan, the Commission shall contribute, via electronic funds transfer, the sum of \$6,700.00.

Staff is also recommending to further restrain future healthcare cost that the Commission continue to offer the HealthiestYou program. HealthiestYou is an innovative telehealth solution which complements our current benefit plans. Employees will have access 24/7 to more than 2,300 licensed physicians via the phone. The cost to the Commission would be \$9.18 per employee per month.

Please note: Compared to the healthcare insurance costs presented last year, the Commission's costs for healthcare will increase slightly for 2023. Employees cost for healthcare will also increase slightly and deductibles and out-of-pocket limits will also increase slightly compared to last year. Costs for the Dental rates have increased by 9%, Vision rates have decreased by 13.5% and the HealthiestYou Program will remain the same as last year. These costs are summarized in Exhibit 1 of the attached Resolution.

The Commission will also continue to offer Envision Flexible Spending Account to employees that would like to participate. The Commission pays a small monthly administration fee for this service.

A summary of the employee insurance benefits recommended by staff and associated premiums and administrative costs to be paid by the Commission are summarized in Exhibit 1 to Resolution No. R-68-22. A more detailed summary of benefits and comparison to current costs is attached to this Request for Board Action.

Resolution No. R-68-22 would suspend the purchasing provisions of the Commission's By-Laws and approve plan year 2023 eligible employee insurance benefits and associated premiums and administrative costs to be paid by the Commission as recommended by staff.

DUPAGE WATER COMMISSION

RESOLUTION NO. R-68-22

A RESOLUTION APPROVING EMPLOYEE INSURANCE BENEFITS
FOR PLAN YEAR BEGINNING JANUARY 1, 2023 AND ENDING DECEMBER 31, 2023

WHEREAS, the Commission's Healthcare Plans renewal and deductible dates to the calendar year; and

WHEREAS the Commission's annually determines employee insurance benefits to be provided commencing January 1 of each year; and

WHEREAS, in consultation with Dato Pistorio Financial Group, Inc., Commission staff recommends approval of the employee insurance benefits for the year beginning January 1, 2023 and ending December 31, 2023 (Plan Year 2023) summarized in Exhibit 1 attached hereto and by this reference incorporated herein.

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

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

SECTION TWO: The Plan Year 2023 employee insurance benefits and associated premium costs and administrative fees to be paid by the Commission, all as summarized in Exhibit 1 attached hereto, shall be and they hereby are approved for the Plan Year 2023. The General Manager shall be and hereby is authorized and directed to provide the insurance coverages and pay the associated premium costs and administrative fees to be paid by the Commission as summarized in Exhibit 1 attached hereto without further act of the Board of Commissioners.

SECTION THREE: Notwithstanding any restrictions contained in Resolution No. R-27-90, as modified by Resolution Nos. R-34-90, R-34-96 as amended, R-46-04 as amended, R-5-05 as amended, R-6-08 as amended, R-54-08, and as amended by Resolution No. R-14-00, which prohibit, except in specified circumstances, the wire transfer of Commission funds to financial institutions not listed on the approved Depository List and to accounts not held in the name of the Commission, the Chairman, the Treasurer, the Finance Committee Chairman, the General Manager, or the Financial Administrator shall be and they hereby are authorized to direct the electronic transfer of Commission funds out of any Account held in the name of the Commission for the remittance of the Commission's contributions to the Health Savings Accounts established by the Commission for eligible employees that elect coverage under the Blue Cross Blue Shield HSA-Qualified High Deductible Health Plan as provided in Exhibit 1 attached hereto. In furtherance thereof, the General Manager shall be and hereby is authorized and directed to execute any agreements required to establish the Health Savings Accounts for eligible employees that elect coverage under the Blue Cross Blue Shield HSA-Qualified High Deductible Health Plan as provided in Exhibit 1 attached hereto as well as any agreement required to effectuate the electronic transfers hereinabove provided for. Upon execution by the General Manager, the agreements, and all things provided for therein, shall be deemed accepted by the DuPage Water Commission without further act.

SECTION FOUR: This Resolution shall be in full force and effect from and after its adoption, the Board of Commissioners of the DuPage Water Commission having determined, by a two-thirds majority vote, to suspend the purchasing provisions of the Commission's By-Laws.

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

| | Aye | Nay | Absent | Abstain |
|---------------|-----|-----|--------|---------|
| Bouckaert, D. | | | | |
| Broda, J. | | | | |
| Fennell, J. | | | | |
| Gans, R. | | | | |
| Gustin, P. | | | | |
| Healy, J. | | | | |
| Novotny, D. | | | | |
| Pruyn, J. | | | | |
| Rush, K. | | | | |
| Russo, D. | | | | |
| Saverino, F. | | | | |
| Suess, P. | | | | |
| Zay, J. | | | | |

ADOPTED THIS _____ DAY OF _____, 2022.

James Zay, Chairman

ATTEST:

Danna Mundall, Clerk

EXHIBIT 1

THE PLAN YEAR BEGINNING JANUARY 1, 2023 AND
ENDING DECEMBER 31, 2023 EMPLOYEE INSURANCE BENEFITS

Plan Year 2023 Health Insurance Plans

The following health insurance plans or significantly similar plans shall be made available to Eligible Commission Employees/Retirees for Plan Year 2023 at the following rates:

Blue Cross Blue Shield Blue Platinum PPO Plan P503PPO with Prescription Drug benefit
\$0/\$10/\$35/\$75/\$150/\$250

| | |
|-------------------|------------|
| Employee | \$1,011.00 |
| Employee & Spouse | \$2,022.00 |
| Employee & Child | \$1,870.35 |
| Family | \$2,881.35 |

Blue Cross Blue Shield Blue Gold HSA Plan G533PPO with Prescription Drug benefit
90%/90%/80%/70%/60%/50% after deductible

| | |
|-------------------|------------|
| Employee | \$830.07 |
| Employee & Spouse | \$1,660.14 |
| Employee & Child | \$1,535.63 |
| Family | \$2,365.70 |

Blue Cross Blue Shield Blue Choice Preferred PPO G530BCE with Prescription Drug benefit
\$0/\$10/\$35/\$75/\$150/\$250

| | |
|-------------------|------------|
| Employee | \$650.57 |
| Employee & Spouse | \$1,301.14 |
| Employee & Child | \$1,203.55 |
| Family | \$1,854.12 |

Blue Cross Blue Shield Blue Precision Platinum HMO P506PSN with Prescription Drug benefit \$0/\$10/\$50/\$100/\$150/\$250

| | |
|---------------------|------------|
| Employee | \$659.02 |
| Employee & Spouse | \$1,318.04 |
| Employee & Children | \$1,219.19 |
| Family | \$1,878.21 |

The Commission's contribution for health insurance for Plan Year 2023 shall be 80% of the premium for eligible employees and their covered dependents for the selected health insurance plan.

Employees shall continue to pay 20% of the selected health insurance plan premium for themselves and their covered dependents.

For each eligible employee selecting the High Deductible Health Plan \$3,000/\$6,000/\$9,000 HSA Plan, the Commission shall establish a Health Savings Account funded in the following amounts:

| | |
|----------------------------|------------|
| Employee | \$2,700.00 |
| Employee & Spouse or Child | \$4,500.00 |
| Employee & Children | \$6,700.00 |
| Family | \$6,700.00 |

The Commission shall not establish, nor contribute to, Health Savings Accounts for retirees selecting the High Deductible Health Plan HSA Plan.

The Commission-established Employee Health Savings Accounts shall be administered by Mellon Bank as the Commission's third-party administrator for Plan Year 2023 at a rate not-to-exceed \$5.00/account/month. Due to the uncertainty as to how many employees will elect this option, the Commission's annual not-to-exceed cost is \$5,000.00.

Plan Year 2023 Life Insurance

The life insurance and the AD&D benefit program for Eligible Commission Employees shall be through MetLife for Plan Year 2023 at a rate of \$0.263 x per \$1,000 of coverage per employee per month. The life insurance benefit is in the amount of one and one-half times the eligible employee's annual base pay rounded to the nearest \$1,000. The premium shall be paid in full by the Commission.

Plan Year 2023 Dental Insurance and Vision Insurance

The dental and vision insurance benefit program or significantly similar programs for Eligible Commission Employees shall be through MetLife for Plan Year 2023 and are as follows:

Please note: Dental rates have increased by 9%, and Vision rates have decreased by 13.5% from last year.

| Coverage | Dental | Vision |
|---------------------|---------------|---------------|
| Employee | \$56.85 | \$9.91 |
| Employee & Spouse | \$118.08 | \$19.86 |
| Employee & Children | \$113.35 | \$16.82 |
| Family | \$180.20 | \$27.73 |

The Commission’s contribution for dental and vision insurance for Plan Year 2023 shall be 80% of the dental and vision insurance plan premiums for eligible employees and their covered dependents.

Employees shall continue to pay 20% of the dental and vision insurance plan premiums for themselves and their covered dependents.

The Commission’s contribution for the program called the HealthiestYou for Plan Year 2023 shall remain the same at \$9.18 per employee per month. HealthiestYou is the most innovative telehealth solution on the market and complements our current benefit plans. Employees will have access 24/7 to more than 2300 licensed physicians via the phone.



Resolution #: R-74-22

Account: N/A

Approvals: *Author / Manager / Finance / Admin*

D.P. RCB CAP PDM

REQUEST FOR BOARD ACTION

Date: 11/10/2022

Description: A Resolution Authorizing and Ratifying the Disposal of Certain Personal Property Owned by the DuPage Water Commission

Agenda Section: Administration Committee

Originating Department: Pipeline

Resolution No. R-74-22 is a Resolution Authorizing and Ratifying the Disposal of Certain Personal Property Owned by the DuPage Water Commission. This Resolution authorizes the General Manager to dispose of the assets listed on Exhibit A to the Resolution because these assets are no longer useful to the Commission.

The equipment listed below will be listed up for auction at an open to the public Government and Municipal Auction house serving the Midwest, Northern Illinois, and Southern Wisconsin: Obenauf Auction Service, Inc., 810 Magna Drive, Round Lake, IL. 60073

| Qty | VIN / Model / Serial Number | Description | Date Purchased | Cost *Estimated Value |
|-----|--|---|----------------|-----------------------|
| 1 | Model # EG2800i, Serial Number not legible but record show #2023158 | Honda Generator | 2019 | \$750.00 |
| 1 | Model # EG2800i, Serial Number not legible but record shows #2023157 | Honda Generator | 2019 | \$750.00 |
| 1 | VIN 5F1191015K1000987 | Wanco Vertical Mast Arrow Board | 2019 | \$1,200.00 |
| 11 | Various Office Furnishings | 5) Double Pedestal Desks, 1) Right Pedestal Desk with Return Desk, 1) Left Pedestal Desk with Pedestal Return Desk, 2) Vertical 2-Drawer Legal Size File Cabinets, 1) Lateral 4-Drawer Legal or Letter File Cabinet, and 1) Utility Table, 72"W x 30"D with Laminate Top. | 2005 | \$1,000.00 |

Recommended Motion:

To adopt Resolution No. R-74-22

DuPAGE WATER COMMISSION

RESOLUTION NO. R-74-22

**A RESOLUTION AUTHORIZING AND RATIFYING
THE DISPOSAL OF CERTAIN PERSONAL PROPERTY
OWNED BY THE DuPAGE WATER COMMISSION**

WHEREAS, the DuPage Water Commission is authorized to sell or otherwise dispose of personal property pursuant to 65 ILCS 5/11-135-6; and

WHEREAS, in the opinion of the Board of Commissioners of the DuPage Water Commission, the personal property described in Exhibit A attached hereto and by this reference incorporated herein and made a part hereof (the "Property") is no longer necessary or useful to or for the best interests of the DuPage Water Commission to retain or, if already disposed of, was not necessary or useful to or for the best interests of the DuPage Water Commission to retain.

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

SECTION ONE: The Board of Commissioners of the DuPage Water Commission hereby finds and determines that the Property is no longer necessary or useful to the DuPage Water Commission and the best interests of the DuPage Water Commission will be served by its disposal or, if already disposed of, was not necessary or useful to the DuPage Water Commission and the best interests of the DuPage Water Commission were served by its disposal.

SECTION TWO: The General Manager is hereby authorized to dispose of the Property in such manner as the General Manager shall determine or, if already disposed of, the Board of Commissioners of the DuPage Water Commission hereby ratifies and confirms its disposal.

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

| | Aye | Nay | Absent | Abstain |
|---------------|-----|-----|--------|---------|
| Bouckaert, D. | | | | |
| Broda, J. | | | | |
| Fennell, J. | | | | |
| Gans, R. | | | | |
| Gustin, P. | | | | |
| Healy, J. | | | | |
| Novotny, D. | | | | |
| Pruyn, J. | | | | |
| Rush, K. | | | | |
| Russo, D. | | | | |
| Saverino, F. | | | | |
| Suess, P. | | | | |
| Zay, J. | | | | |

ADOPTED THIS ____ DAY OF _____, 2022.

James Zay, Chairman

ATTEST:

Danna Mundall, Clerk



Resolution #: N/A

Account: 01-60-659000 \$51,000.00

Approvals: *Author / Manager / Finance / Admin*

JR DC CAP PDM

REQUEST FOR BOARD ACTION

Date: 11/10/2022

Description: To Authorize Approval of Requisition No. 74964 to Hexagon (formerly INFOR) for Annual Maintenance Renewal

Agenda Section: Administration Committee

Originating Department: Information Technology

Staff is requesting authorization to pay Hexagon AB (formerly Infor) for software maintenance and licensing renewal in the amount of approximately \$51,000.00.

This expense is for the Enterprise Asset Management (EAM) system, the Commission's maintenance and purchasing management program. The software maintenance and licensing renewal fee is due annually and provides the Commission with telephone and online product support, patches, revision changes, program updates, and the ability to utilize the software with licensing for each staff member.

Staff has reduced the annual cost for this coming year's invoice as well as for future invoices. The reduction was approximately \$13,000 (20% savings) due to the integrated GIS module and Requestor licenses not being utilized. Staff is using ESRI Field Maps and ArcGIS Online to view Asset locations.

This expense was budgeted in the Annual Management Budget, but Board approval is required due to the sole source service provider.

Recommended Motion:

To Suspend the Purchasing Procedures of the Commission's By-Laws and Authorize the General Manager to approve Requisition No. 74964 in the amount of approximately \$51,000.00 to Hexagon (formerly Infor).

Quote Summary Information
 DUPAGE WATER COMMISSION



Service Site : US00161305
 Site Contact : JENESSA RODRIGUEZ
 Contact Phone : 630.834.0100
 Email Address : RODRIGUEZ@DPWC.ORG
 Service Address : 600 E BUTTERFIELD RD

 City/State/Zip : ELMHURST IL 60126
 Country : US

Customer ID : DUPAGE WA/ELMHU US00161305
 Bill To Cust : DUPAGE WATER COMMISSION
 Bill To Address : 600 E BUTTERFIELD RD

 City/State/Zip : ELMHURST IL 60126
 Country : US
 Policy Number : DDCC550F0
 PO Nbr : RENEWAL QUOTE

Service Type : **RENEWAL Q**
 Period of Performance : **02/01/2023 - 01/31/2024**
 Billed on the : 1 st Day of each period
 Period is defined as : Every 12 Months
 Previous Cust Code :
 Previous Contract # : 93537

Total Contract Value : \$ 50,823.24

*** Totals are exclusive of sales tax. This is NOT AN INVOICE.**

Quote: 0000109856

Offered By Hexagon ALI

 By : _____

 Name : Kelly Bergfalk

 Email : kelly.bergfalk@hexagon.com

 Address : 305 Intergraph Way
 Madison, AL 35758
 Phone: 1-470-481-9695

 Issue Date : 11/03/2022

Accepted By : _____
 COMPANY : _____

 By : _____

 Name/Title : _____

 POC/Phone : _____

 POC Email : _____

 Date : _____

Quotes are valid for 90 days from original date of issue. Quote acceptance after 90 days is at the discretion of Hexagon ALI, a division of Intergraph Corporation.

Messages All services provided hereunder are subject to ALI's Maintenance Service Contract Terms & Conditions (T's & C's) for software (DDCC550F0) unless other specific Terms & Conditions apply and are referenced in the Policy Number field. Copies of the applicable T's & C's may be obtained online at [T's & C's](#). * Totals are exclusive of sales tax - This is NOT AN INVOICE. For coverage code explanations, refer to the last page.

Hexagon ALI



Summary Of Service Quote 0000109856

| <u>Item Number</u> | <u>Description</u> | <u>QTY</u> | <u>Months</u> | <u>Mthly Price (ea.)</u> | <u>Total Value</u> | <u>Start Date</u> | <u>End Date</u> |
|----------------------|--|------------|---------------|--------------------------|---------------------|-------------------|-----------------|
| EAM00004 | HxGN EAM Enterprise Edition for SQL Database NU | 1 | 12 | \$ 74.93 | \$ 856.32 | 02/17/2023 | 01/31/2024 |
| EAM00004 | HxGN EAM Enterprise Edition for SQL Database NU | 35 | 12 | \$ 107.85 | \$ 43,138.20 | 02/17/2023 | 01/31/2024 |
| EAM00014 | HxGN EAM Enterprise Edition Barcoding NU | 1 | 12 | \$ 37.84 | \$ 432.48 | 02/17/2023 | 01/31/2024 |
| EAM00019 | HxGN EAM Enterprise Edition Advanced Reporting Consumer NU | 1 | 12 | \$ 5.86 | \$ 66.96 | 02/17/2023 | 01/31/2024 |
| EAM00019 | HxGN EAM Enterprise Edition Advanced Reporting Consumer NU | 35 | 12 | \$ 11.01 | \$ 4,405.80 | 02/17/2023 | 01/31/2024 |
| EAM00035 | HxGN EAM Enterprise Edition Requestor DA | 2 | 12 | \$ 6.40 | \$ 146.16 | 02/17/2023 | 01/31/2024 |
| EAM00356 | HxGN EAM Enterprise Edition Mobile DV | 3 | 12 | \$ 51.84 | \$ 1,777.32 | 02/17/2023 | 01/31/2024 |
| Grand Total : | | | | | \$ 50,823.24 | | |



Service Quote Detail

| <u>LI</u> | <u>Sts</u> | <u>Item Number</u> | <u>Description</u> | <u>Serial Number</u> | <u>Start Date</u> | <u>End Date</u> | <u>Coverage</u> | <u>QTY</u> | <u>Months</u> | <u>Mthly Price</u> | <u>Ext. Price</u> | <u>Cancel Flag</u> |
|-----------|------------|--------------------|--|----------------------|-------------------|-----------------|-----------------|------------|---------------|--------------------|-------------------|--------------------|
| 100 | | EAM00019 | HxGN EAM Enterprise Edition Advanced Reporting Consumer NU | A109497 | 02/17/2023 | 01/31/2024 | PREM | 1 | 12 | \$ 5.86 | \$ 66.96 | |
| 200 | | EAM00019 | HxGN EAM Enterprise Edition Advanced Reporting Consumer NU | B109497 | 02/17/2023 | 01/31/2024 | PREM | 35 | 12 | \$ 11.01 | \$ 4,405.80 | |
| 300 | | EAM00014 | HxGN EAM Enterprise Edition Barcoding NU | C109497 | 02/17/2023 | 01/31/2024 | PREM | 1 | 12 | \$ 37.84 | \$ 432.48 | |
| 500 | | EAM00356 | HxGN EAM Enterprise Edition Mobile DV | E109497 | 02/17/2023 | 01/31/2024 | PREM | 3 | 12 | \$ 51.84 | \$ 1,777.32 | |
| 600 | | EAM00035 | HxGN EAM Enterprise Edition Requestor DA | F109497 | 02/17/2023 | 01/31/2024 | PREM | 2 | 12 | \$ 6.40 | \$ 146.16 | |
| 700 | | EAM00004 | HxGN EAM Enterprise Edition for SQL Database NU | G109497 | 02/17/2023 | 01/31/2024 | PREM | 1 | 12 | \$ 74.93 | \$ 856.32 | |
| 800 | | EAM00004 | HxGN EAM Enterprise Edition for SQL Database NU | H109497 | 02/17/2023 | 01/31/2024 | PREM | 35 | 12 | \$ 107.85 | \$ 43,138.20 | |



Quote Line Notes:

Coverage Code Definitions:

PREM: Premium Service. A monthly maintenance charge. Includes telephone support, bulletin board support and upgrades when made available by Hexagon ALI or a Third Party Software Vendor.

Purchase Requisition

Purchase Requisition 74964 [Hexagon (Infor) Annual Software Maintenance 2023] **Requisition Date** 11/01/2022

Date Approved

Status U [Unfinished]
For Store DPS [DuPage Pumping Station]
Originator 109-0045 [JENESSA RODRIGUEZ]

Services

| Line | Task Plan | Due date | Quantity | UOM | Units | Unit Price | Total |
|------|-----------|------------|----------|-----|-------|------------|---------------|
| 1 | | 11/01/2022 | 1 | | | 50,823.24 | 50,823.24 USD |

From Supplier HEXAGON [Hexagon (formerly Infor)]
Work Order - Activity
RFQ
Quotation
Quotation Line

Total 50,823.24 USD

| | |
|-----------------|--|
| Approver | |
|-----------------|--|

Comments

Date

Requisition Comments

R5 [11/04/2022 07:17]:

Annual software maintenance fee for Hexagon (formerly Infor EAM).

Copy of original quote is on the Documents tab. Was reduced due to the removal of the GIS module and requestor licenses reduced down to two.

Due date: Feb 2023

To be approved at the November 2022 board meeting.



Resolution #: N/A

Account: N/A

Approvals: *Author / Manager / Finance / Admin*

DM - - PDM

REQUEST FOR BOARD ACTION

Date: 11/17/2022
Description: 2023 Schedule of Meetings
Agenda Section: Administration Committee
Originating Department: Administration

Seeking Board approval of the Schedule of Board and Committee Meetings for calendar year 2023.

Recommended Motion:

Motion to approve the 2023 Schedule of Meetings.



MEMORANDUM

To: DuPage Water Commissioners
From: Paul D. May, P.E., General Manager
Date: November 17, 2022
Subject: **2023 Schedule of Meetings**

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

January 19, 2023
February 16, 2023
March 16, 2023
April 20, 2023
May 18, 2023
June 15, 2023
July 20, 2023
August 17, 2023
September 21, 2023
October 19, 2023
November 16, 2023
December 21, 2023

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