




DuPage Water Commission

MEMORANDUM

TO: Chairman Rathje and Commissioners

FROM: Robert L. Martin, P.E.
General Manager 

DATE: July 7, 2009

SUBJECT: Supplemental Board Package Material

Attached please find the following:

1. REVISED Commission Agenda
2. Ordinance No. O-9-09: An Ordinance Amending Ordinance No. O-2-09, being "An Ordinance Approving and Authorizing the Execution of an Intergovernmental Agreement between the DuPage Water Commission and the County of DuPage Concerning the Construction and Operation of a Joint Facility for the Glen Ellyn Heights Service Area"
3. Ordinance No. O-10-09: An Ordinance Amending Ordinance No. O-3-09, being "An Ordinance Approving and Authorizing the Execution of an Intergovernmental Agreement between the DuPage Water Commission and the County of DuPage Concerning the Construction and Operation of a Joint Facility for the Hobson Valley (Greene Road) Service Area"
4. Treasurer's Report
5. Financial Report



DuPage Water Commission

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

REVISED AGENDA

DUPAGE WATER COMMISSION
THURSDAY, JULY 9, 2009
7:30 P.M.

600 EAST BUTTERFIELD ROAD
ELMHURST, IL 60126

- I. Call to Order and Pledge of Allegiance
- II. Roll Call
(Majority of the Commissioners then in office—minimum 7)
- III. Public Comments (limited to 5 minutes per person)
- IV. Approval of Minutes
 - Regular Meeting of June 11, 2009
(Concurrence of a Majority of those Commissioners Present, provided there is a quorum—minimum 4)

RECOMMENDED MOTION: To approve the Minutes of the June 11, 2009 Regular Meeting of the DuPage Water Commission (Voice Vote).

- V. Treasurer's Report – June 2009
(Concurrence of a Majority of those Commissioners Present, provided there is a quorum—minimum 4)

RECOMMENDED MOTION: To accept the June 2009 Treasurer's Report (Voice Vote).

- VI. Committee Reports
 - A. Administration Committee
 1. Report of 7/9/09 Administration Committee
 2. Actions on Items Listed on 7/9/09 Administration Committee
 - B. Engineering & Construction Committee
 1. Report of 7/9/09 Engineering & Construction Committee

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

2. Actions on Items Listed on 7/9/09 Engineering & Construction Committee

C. Finance Committee

1. Report of 7/9/09 Finance Committee

2. Actions on Items Listed on 7/9/09 Finance Committee Agenda

VII. Chairman's Report

VIII. Omnibus Vote Requiring Majority Vote

A. Resolution No. R-38-09: A Resolution Approving and Ratifying Certain Task Orders Under a Master Contract with Peters & Associates, Inc. at the July 9, 2009, DuPage Water Commission Meeting

(Concurrence of a Majority of the Appointed Commissioners—7)

B. Resolution No. R-40-09: A Resolution Approving a First Amendment to the Landscape Maintenance Services Contract between the DuPage Water Commission and Acres Enterprises, Inc.

(Concurrence of a Majority of the Appointed Commissioners—7)

RECOMMENDED MOTION: To adopt the items listed on the Majority Omnibus Vote Agenda in a single group pursuant to the Omnibus Vote Procedures (Roll Call).

IX. Omnibus Vote Requiring Super-Majority or Special Majority Vote

A. Ordinance No. O-9-09: An Ordinance Amending Ordinance No. O-2-09, being "An Ordinance Approving and Authorizing the Execution of an Intergovernmental Agreement between the DuPage Water Commission and the County of DuPage Concerning the Construction and Operation of a Joint Facility for the Glen Ellyn Heights Service Area"

(Affirmative Majority of the Appointed Commissioners, containing the votes of at least 1/3 of the County Appointed Commissioners and 40% of the Municipal Appointed Commissioners—3 County + 3 Muni+1=7)

B. Ordinance No. O-10-09: An Ordinance Amending Ordinance No. O-3-09, being "An Ordinance Approving and Authorizing the Execution of an Intergovernmental Agreement between the DuPage Water Commission and the County of DuPage Concerning the Construction and Operation of a Joint Facility for the Hobson Valley (Greene Road) Service Area"

(Affirmative Majority of the Appointed Commissioners, containing the votes of at least 1/3 of the County Appointed Commissioners and 40% of the Municipal Appointed Commissioners—3 County + 3 Muni+1=7)

C. Resolution No. R-36-09: A Resolution Approving and Ratifying Certain Contract Change Orders at the July 9, 2009, DuPage Water Commission Meeting

(Affirmative Majority of the Appointed Commissioners, containing the votes of at least 1/3 of the County Appointed Commissioners and 40% of the Municipal Appointed Commissioners—3 County + 3 Muni+1=7)

- D. Resolution No. R-37-09: A Resolution Approving and Ratifying Certain Work Authorization Orders Under Quick Response Contract QR-8/08 at the July 9, 2009, DuPage Water Commission Meeting

(Affirmative Majority of the Appointed Commissioners, containing the votes of at least 1/3 of the County Appointed Commissioners and 40% of the Municipal Appointed Commissioners—3 County + 3 Muni+1=7)

- E. Resolution No. R-39-09: A Resolution Approving and Ratifying Certain Task Orders Under a Master Contract with Patrick Engineering, Inc. at the July 9, 2009, DuPage Water Commission Meeting

(Affirmative Majority of the Appointed Commissioners, containing the votes of at least 1/3 of the County Appointed Commissioners and 40% of the Municipal Appointed Commissioners—3 County + 3 Muni+1=7)

- F. Resolution No. R-41-09: A Resolution Approving a First Amendment to Task Order No. 10 Under the Master Contract with Patrick Engineering, Inc.

(Affirmative Majority of the Appointed Commissioners, containing the votes of at least 1/3 of the County Appointed Commissioners and 40% of the Municipal Appointed Commissioners—3 County + 3 Muni+1=7)

RECOMMENDED MOTION: To adopt the items listed on the Super/Special Majority Omnibus Vote Agenda in a single group pursuant to the Omnibus Vote Procedures (Roll Call).

- X. Old Business

- Water Conservation Program

- XI. New Business

- XII. Accounts Payable

(Affirmative Majority of the Appointed Commissioners, containing the votes of at least 1/3 of the County Appointed Commissioners and 40% of the Municipal Appointed Commissioners—3 County + 3 Muni+1=7)

RECOMMENDED MOTION: To approve the Accounts Payable in the amount of \$5,842.00 subject to submission of all contractually required documentation (Roll Call).

- XIII. Executive Session

(Concurrence of a Majority of those Commissioners Present, provided there is a quorum—minimum 4)


RECOMMENDED MOTION: To go into Executive Session to discuss security procedures pursuant to 5 ILCS 120/2(c)(8), to discuss matters related to personnel pursuant to 5 ILCS 120/2(c)(1) and (2), to discuss acquisition of real estate pursuant to 5 ILCS 120/2(c)(5), and/or to discuss pending, probable, or imminent litigation pursuant to 5 ILCS 120/2(c)(11) (Roll Call).

RECOMMENDED MOTION: To come out of Executive Session (Voice Vote).

- XIV. Adjournment

(Concurrence of a Majority of those Commissioners Present, provided there is a quorum—minimum 4)

REQUEST FOR BOARD ACTION

AGENDA SECTION	Omnibus Vote Requiring Super-Majority or Special Majority Vote	ORIGINATING DEPARTMENT	Facilities Construction
ITEM	<p>An Ordinance Amending Ordinance No. O-2-09, being "An Ordinance Approving and Authorizing the Execution of an Intergovernmental Agreement between the DuPage Water Commission and the County of DuPage Concerning the Construction and Operation of a Joint Facility for the Glen Ellyn Heights Service Area"</p> <p>Ordinance No. O-9-09</p>	APPROVAL	

The County of DuPage requested that the Commission design and construct the County's Pressure Adjusting Station for the Glen Ellyn Heights Service Area to avoid duplication of construction activities and unnecessary public disruption that would be associated with the construction of the Commission's Metering Station at the same location. In addition, the County requested that the Metering Station and Pressure Adjusting Station be constructed as a joint facility in one monolithic, cast in place concrete structure rather than as separate facilities. Finally, the County proposed that the Joint Facility be located within unimproved public right-of-way, that, at the time, DuPage County planned to either purchase or lease.

Because these requests deviate from the requirements of the existing Water Purchase and Sale Contract between the Commission and the County, a special intergovernmental agreement is needed to address each party's additional responsibilities and obligations. This special intergovernmental agreement also needs to minimize the Commission's liability for future relocations of the Metering Station because the County's proposed site is located in the public right-of-way, exposing the Commission to claims that the Metering Station constitutes an unauthorized obstruction of the public right-of-way in violation of the public trust, as well as to the County's statutory authority to request relocation whenever deemed necessary by the County for highway or highway safety purposes.

Pursuant to Resolution No. O-2-09, adopted on March 12, 2009, the Board approved the form of the special intergovernmental agreement, which was substantially the same as agreements the Commission has used with other customers that proposed joint Metering/Pressure Adjusting Station facilities and, on the odd occasion, Metering Stations located within public rights-of-way. Since that time, the County changed the location of the proposed Metering Station site within the public right-of-way that the County now owns or intends to purchase, and made other changes to the form of intergovernmental agreement approved by the Board.

AGENDA SECTION	Omnibus Vote Requiring Super-Majority or Special Majority Vote	ORIGINATING DEPARTMENT	Facilities Construction
ITEM	<p>An Ordinance Amending Ordinance No. O-2-09, being "An Ordinance Approving and Authorizing the Execution of an Intergovernmental Agreement between the DuPage Water Commission and the County of DuPage Concerning the Construction and Operation of a Joint Facility for the Glen Ellyn Heights Service Area"</p> <p>Ordinance No. O-9-09</p>	APPROVAL	
<p>Resolution No. O-9-09 would amend Ordinance No. O-2-09 to evidence the Board's approval of the Intergovernmental Agreement in the form executed by the County.</p>			
<p>MOTION: To adopt Ordinance No. O-9-09.</p>			

DuPAGE WATER COMMISSION

ORDINANCE NO. O-9-09

AN ORDINANCE AMENDING ORDINANCE NO. O-2-09, BEING
"AN ORDINANCE APPROVING AND AUTHORIZING THE EXECUTION OF AN
INTERGOVERNMENTAL AGREEMENT BETWEEN THE DuPAGE WATER
COMMISSION AND THE COUNTY OF DuPAGE CONCERNING THE
CONSTRUCTION AND OPERATION OF A JOINT FACILITY
FOR THE GLEN ELLYN HEIGHTS SERVICE AREA"

WHEREAS, pursuant to Ordinance No. O-2-09, being "An Ordinance Approving and Authorizing the Execution of an Intergovernmental Agreement between the DuPage Water Commission and the County of DuPage Concerning the Construction and Operation of a Joint Facility for the Glen Ellyn Heights Service Area" ("Ordinance No. O-2-09"), the Commission approved an Intergovernmental Agreement with the County of DuPage that (1) provided for the Commission to design and construct the County's Pressure Adjusting Station for the Glen Ellyn Heights Service Area to avoid duplication of construction activities and unnecessary public disruption that would be associated with the construction of the Commission's Metering Station at the same location, (2) provided for the Commission's Metering Station and the County's Pressure Adjusting Station to be constructed as a joint facility in one monolithic, cast in place concrete structure rather than as separate facilities, and (3) provided for the joint facility to be located within unimproved public right-of-way that the County would either purchase or lease; and

WHEREAS, since that time, the County changed the location of the proposed Metering Station site within the public right-of-way that the County now owns or intends to purchase, and made other changes to the form of intergovernmental agreement approved by the Commission;

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: Exhibit 1, entitled "An Intergovernmental Agreement between the DuPage Water Commission and the County of DuPage Concerning the Construction and Operation of a Joint Facility for the Glen Ellyn Heights Service Area," to Ordinance No. O-2-09 shall be and it hereby is amended in its entirety so that said Exhibit 1 shall hereafter be and read as set forth in the Exhibit 1 attached hereto and by this reference incorporated herein and made a part hereof. Any and all references to said Exhibit 1 in Ordinance No. O-2-09 shall hereafter be deemed to refer to the Exhibit 1 attached hereto.

SECTION THREE: Except as hereinabove amended, Ordinance No. O-2-09 shall remain in full force and effect.

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

AYES:

NAYS:

ABSENT:

ADOPTED this _____ day of _____, 2009.

ATTEST:

Chairman

Clerk

Board/Ordinances/O-9-09.doc

EXHIBIT 1

INTERGOVERNMENTAL AGREEMENT BETWEEN THE
DuPAGE WATER COMMISSION AND THE COUNTY OF DuPAGE
CONCERNING THE CONSTRUCTION AND OPERATION OF A JOINT
FACILITY FOR THE GLEN ELLYN HEIGHTS SERVICE AREA

THIS AGREEMENT, made and entered into this 26th day of May, 2009, 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 the COUNTY OF DuPAGE, a unit of local government created and existing under the laws of the State of Illinois ("DuPage County"),

WITNESSETH:

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

WHEREAS, the Commission operates a water system supplying a number of municipalities and other customers in DuPage County with water drawn from Lake Michigan (the "Commission Waterworks System"); and

WHEREAS, DuPage County owns and operates a waterworks system serving several discrete and non-contiguous service areas (the "DuPage County Unit System"); and

WHEREAS, the Commission and DuPage County have entered into a certain Water Purchase and Sale Contract dated as of July 13, 2006, for the sale by the Commission of Lake Michigan water to DuPage County to serve the various discrete and non-contiguous service areas served by the DuPage County Unit System from time to time, including the service area known as the Glen Ellyn Heights Service Area (the "DuPage County Contract"); and

WHEREAS, the DuPage County Contract provides that at each Point of Delivery, as defined in the DuPage County Contract, 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 DuPage County under the DuPage County Contract (each collectively referred to as a "Metering Station"); and

WHEREAS, the DuPage County Contract provides that each Metering Station is to be located at a site owned, selected, and provided by DuPage County, subject to review and approval by the Commission (each referred to as a "Metering Station Site"); and

WHEREAS, the DuPage County Contract provides that DuPage County is to grant to the Commission all perpetual easements necessary for each Metering Station Site, in form satisfactory to the Commission's attorneys and free and clear of all liens, claims, encumbrances and restrictions, unless otherwise approved by the Commission in writing; and

WHEREAS, the DuPage County Contract provides that DuPage County is to furnish, install, own, operate, maintain, repair and replace a pressure adjusting station immediately downstream from each Point of Delivery and pipeline and equipment appurtenant thereto (each collectively referred to as a "Pressure Adjusting Station"); and

WHEREAS, DuPage County requested that the Pressure Adjusting Station at the Point of Delivery for the Glen Ellyn Heights Service Area (the "Glen Ellyn Heights Pressure Adjusting Station") be designed and constructed by the Commission instead of DuPage County to avoid duplication of construction activities and unnecessary public disruption; and

WHEREAS, it is in the best interest of the Commission and DuPage County to design and construct the Glen Ellyn Heights Pressure Adjusting Station and the Metering Station at the Point of Delivery for the Glen Ellyn Heights Service Area (the "Glen Ellyn Heights Metering Station") as a joint facility (the "Joint Facility"); and

WHEREAS, DuPage County has selected the site legally described and depicted in Exhibit B attached hereto and by this reference incorporated herein and made a part hereof as the site for the Glen Ellyn Heights Metering Station (the "Glen Ellyn Heights Metering Station Site"), the Glen Ellyn Heights Pressure Adjusting Station, and the common areas of the Joint Facility (the "Easement Premises"); and

WHEREAS, the Easement Premises are located in unimproved public right-of-way and DuPage County is the owner of the Easement Premises and will only grant a permanent easement for the Glen Ellyn Heights Metering Station Site; and

WHEREAS, in order to induce the Commission to accept the Glen Ellyn Heights Metering Station Site for the Glen Ellyn Heights Metering Station and the Easement Premises for the Joint Facility, DuPage County has represented that it has sufficient legal interest in and proper legal authority to use or permit others to use the Easement Premises for the Joint Facility and the Glen Ellyn Heights Metering Station Site for the Glen Ellyn Heights Metering Station in the manner provided in the Easement Agreement attached hereto and by this reference incorporated herein and made a part hereof as Exhibit B (the "Easement Agreement"); and

WHEREAS, prior to the approval of the Glen Ellyn Heights Metering Station Site and the Easement Premises, the Commission and DuPage County desire to establish by this Agreement supplemental terms under the DuPage County Contract relating to (i) the construction and operation of the Joint Facility and (ii) the Commission's obligation to

deliver and DuPage County's obligation to receive water for the Glen Ellyn Heights Service Area; the location of and property rights for the Glen Ellyn Heights Metering Station; the prices and terms of payment; DuPage County's release and indemnification of the Commission; and the schedule for completion of various facilities, in the event the Easement Agreement is ever terminated or DuPage County's or the Commission's legal interest in or legal authority concerning the use of the Glen Ellyn Heights Metering Station Site for the Glen Ellyn Heights Metering Station in the manner provided in the Easement Agreement or the use of the Easement Premises for the Glen Ellyn Heights Pressure Adjusting Station or the Joint Facility is, for any reason, terminated or deemed or interpreted to be invalid, insufficient, or nonexistent and the Glen Ellyn Heights Metering Station, the Glen Ellyn Heights Pressure Adjusting Station, or the Joint Facility is removed, with or without relocation or replacement; and

WHEREAS, pursuant to the intergovernmental cooperation provisions of Article VII, Section 10 of the Illinois Constitution of 1970 and the Illinois Intergovernmental Cooperation Act, 5 ILCS 220/1 et seq., and other applicable authority, the Commission and DuPage County are authorized to enter into this Agreement;

NOW, THEREFORE, in consideration of the foregoing recitals, which are hereby incorporated into and made a part of this Agreement, and the mutual covenants and agreements set forth below, the Commission and DuPage County hereby agree as follows:

SECTION ONE: PREAMBLES

The foregoing recitals are by this reference incorporated herein and made a part hereof as if fully set forth herein.

SECTION TWO: DEFINITIONS

Capitalized terms not otherwise defined in this Agreement shall have the meanings ascribed to them in the DuPage County Contract as supplemented by this Agreement.

SECTION THREE: CONSTRUCTION AND OPERATION OF THE JOINT FACILITY

A. For purposes of this Agreement, the "Joint Facility" shall mean a facility to convey, measure, and regulate the flow of water from the Commission Waterworks System to the portion of the DuPage County Unit System serving the Glen Ellyn Heights Service Area and shall include the following:

1. A Metering Station, to be known as Metering Station 9A ("MS-9A"), for properly conveying and measuring the quantity of Lake Water delivered by the Commission to the portion of the DuPage County Unit System serving the Glen Ellyn Heights Service Area, including certain equipment, devices, and structures, and portions of its water distribution main, including underground feeder pipe lines and related equipment to initially connect MS-9A to the existing Commission Waterworks System, and all antennas and appurtenant facilities for the Commission's Supervisory Control and Data Acquisition Instrumentation System attributable to MS-9A, as such facilities may be relocated, replaced, extended, or improved from time to time (the "Glen Ellyn Heights Metering Station").

2i. A Type C pressure adjusting station at the Point of Delivery for the Glen Ellyn Heights Service Area in accordance with the design criteria set forth in the document entitled "Water Delivery Data DuPage Water Commission" dated March 12, 2009, and identifying DuPage County as "customer," a copy of which is attached hereto and by this reference incorporated herein and made a part hereof as Exhibit A (the "Glen Ellyn Heights Pressure Adjusting Station").

3. Such other equipment and appurtenances as may be necessary for the operation and construction of the foregoing in conformance with the approved design plans therefor.

B. The Joint Facility is expected to be located on the site legally described in Exhibit B attached hereto as selected, and owned by DuPage County (the "Joint Facility Site"), the location of which has been reviewed and approved by the Commission subject to the terms, conditions, and limitations set forth in Section Four of this Agreement. In the event the property is not dedicated to DuPage County or is otherwise determined by the Commission and DuPage County to be unsuitable for locating the Joint Facility, DuPage County shall endeavor in good faith to obtain an alternative location for the Joint Facility Site acceptable to both the Commission and DuPage County.

C. DuPage County shall be solely responsible for the costs in designing the Joint Facility. It is understood that the Commission will be the contracting party with the design engineer and will administer the design contract for the benefit of both the Commission and DuPage County. The Commission will consult with DuPage County to keep DuPage County advised as to the progress of the design work and to address issues of mutual concern regarding the details of such design work. The final design of the Joint Facility shall be subject to the review of both the Commission and DuPage County and subject to the approval of the Commission to the extent of the Glen Ellyn Heights Metering Station, DuPage County to the extent of the Glen Ellyn Heights Pressure Adjusting Station, and both the Commission and DuPage County to the extent of the common areas of the Joint Facility. For the purposes of this Agreement, the common areas of the Joint Facility shall include those portions of the Joint Facility, such as the structure and area grounds, which serve the needs of both the Commission and DuPage County.

D. DuPage County shall be solely responsible for the costs in constructing the Joint Facility. The Commission shall solicit bids for the construction of the Joint Facility, including all equipment and appurtenances necessary for the Glen Ellyn Heights Metering Station and the Glen Ellyn Heights Pressure Adjusting Station. The Commission's standard form of bidding and construction contract documents shall be used and the cost of the Glen Ellyn Heights Metering Station, the Glen Ellyn Heights Pressure Adjusting Station, and the common areas of the Joint Facility shall be separately identified in the bidding and construction contract documents. The Commission agrees to solicit, award, and administer all contracts for the project in the best interest of both the Commission and DuPage County and to consult with, and keep advised, DuPage County's Superintendent of Public Works, or his or her designee, regarding the progress of the work and any problems encountered or changes recommended. Both the Commission and DuPage County must agree to the award of any contract for such construction work. Upon approval of both the Commission and DuPage County, the Commission shall enter into a construction contract(s) with the selected contractor(s), and shall administer such construction contract(s) in conformance with this Agreement. It is understood that, although DuPage County will not be a party to the construction contract(s), DuPage County will be designated as a beneficiary of any insurance, guaranty, or warranty required by the construction contract(s). In addition, any change order, as well as final acceptance and approval of the completed Joint Facility, shall be subject to the approval of the Commission to the extent of the Glen Ellyn Heights Metering Station, DuPage County to the extent of the Glen Ellyn Heights Pressure Adjusting Station, and both the Commission and DuPage County to the extent of the common areas of the Joint Facility. Neither Party shall be required to approve or accept

any portion of the Joint Facility until all portions of the Joint Facility, including all punch list items, have been fully and properly completed.

E. DuPage County shall reimburse the Commission for the full actual cost incurred by the Commission in connection with (a) the design, bidding, contracting, managing, and actual construction, installation, removal, relocation, replacement, extension, or improvement of the Joint Facility, including without limitation equipment required for the operation of the Joint Facility and all administrative, financing, supervisory, inspection, engineering, surveying, and legal fees, costs, and expenses associated therewith; (b) 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 Joint Facility, and all administrative, title, surveying, and legal fees, costs, and expenses associated therewith; and (c) the review and processing of plans and agreements for the construction, installation, removal, relocation, replacement, extension, or improvement of the Joint Facility and in connection with the negotiation, preparation, consideration, and review of this Agreement, including without limitation all legal, engineering, consulting, and administrative fees, costs, and expenses associated therewith. DuPage County shall reimburse the Commission monthly for such fees, costs, and expenses, in accordance with the provisions of Subsection 3G of this Agreement.

F. Prior to the Commission's solicitation of bids for the construction of the Joint Facility, DuPage County, without charge to the Commission, shall: (a) present the Commission with adequate evidence of merchantable fee simple title to the Joint Facility Site; (b) grant or cause to be granted to the Commission all necessary and insured easements for the Joint Facility Site, in substantially the form attached hereto and by this

reference incorporated herein and made part hereof as Exhibit B and satisfactory to the Commission's attorneys, free and clear of all liens, claims, encumbrances, and restrictions unless otherwise approved by the Commission in writing; and (c) grant to the Commission all necessary and insured easements for the appropriate location and installation of antennas and appurtenant facilities for the Commission's Supervisory Control and Data Acquisition Instrumentation System attributable to the Glen Ellyn Heights Metering Station, free and clear of all liens, claims, encumbrances, and restrictions unless otherwise approved by the Commission in writing.

G. DuPage County shall, as a condition precedent to the effectiveness of the Commission ordinance approving this Agreement, deposit with the Commission cash (the "Cash Deposit") in a total amount equal to \$438,750.00 (125 percent of the Commission's estimated costs of design and constructing the Glen Ellyn Heights Pressure Adjusting Station). Upon execution of all contracts necessary or required for the design and construction of the Glen Ellyn Heights Pressure Adjusting Station, the Cash Deposit may be reduced from 125 percent of the Commission's estimate to 110 percent of the amount of the executed contracts attributable to the design and construction of the Glen Ellyn Heights Pressure Adjusting Station. The Cash Deposit shall, at all times until released or reduced as provided below, be maintained at not less than 10 percent of the total deposit required by the preceding sentence. DuPage County shall not be entitled to interest on the Cash Deposit.

In addition, DuPage County shall reimburse the Commission for all costs incurred by the Commission in connection with: (i) the design of, and the review and approval of all plans and specifications for, the Glen Ellyn Heights Metering Station and the common areas of the Joint Facility; (ii) the preparation of all bidding and contract documents for the

Joint Facility; (iii) the administration of the contract for the construction of the Joint Facility; and (iv) shop drawing review and the inspection of the construction and installation of the Glen Ellyn Heights Metering Station and the common areas of the Joint Facility, including all legal, engineering, and other consulting and administrative fees, costs, and expenses. All of the foregoing fees, costs, and expenses shall be included within, and shall be paid for in accordance with, Subsection 7C of the DuPage County Contract as part of its Connection Facilities Cost.

The Commission shall review all pay requests and supporting documents and shall direct payments to be made from the Cash Deposit of all amounts then due for the Glen Ellyn Heights Pressure Adjusting Station work each month. If at any time the Commission determines that the funds remaining in the Cash Deposit are not, or may not be, sufficient to pay in full the remaining unpaid cost of the Glen Ellyn Heights Pressure Adjusting Station, then, within 10 days following a demand by the Commission, DuPage County shall increase the amount of the Cash Deposit to an amount reasonably determined by the Commission to be sufficient to pay 120 percent of such unpaid costs. Failure to so increase the amount of the Cash Deposit shall be grounds for the Commission to retain any remaining balance of the Cash Deposit and terminate this Agreement pursuant to Subsection 5D of this Agreement. The Commission shall release any amounts remaining in the Cash Deposit after final payment to the construction contractor unless this Agreement shall have been sooner terminated as provided in the preceding sentence.

The Cash Deposit required by this Subsection 3G shall be in addition to, and not as a credit against, the "Cash Deposit" required by Subsection 7C of the DuPage County Contract.

H. Upon acceptance and approval of the Joint Facility, ownership of the Glen Ellyn Heights Pressure Adjusting Station and a bill of sale therefor shall be conveyed to DuPage County. Immediately following such conveyance, DuPage County shall own and operate the Glen Ellyn Heights Pressure Adjusting Station, the Glen Ellyn Heights Pressure Adjusting Station shall become the sole and exclusive property of DuPage County, and DuPage County shall have all duty, responsibility, and liability to maintain and repair the Glen Ellyn Heights Pressure Adjusting Station and the common areas of the Joint Facility and the Commission shall have no obligation or duty with respect thereto. Upon completion of the construction and installation of the Joint Facility, the Commission shall have all duty, responsibility, and liability to maintain and repair the Glen Ellyn Heights Metering Station.

I. Once the Joint Facility becomes operational, the rate of withdrawal from the Joint Facility shall not exceed that portion of the rate allowed by Subsections 3A and 9M of the DuPage County Contract that is attributable to, and is based upon the Water Allocation for, the Glen Ellyn Heights Service Area.

J. DuPage County acknowledges and agrees that: (a) the Commission is not, and shall not be, in any way liable for damages or injuries that may be sustained as a result of the Commission's review and approval of any plans for the Joint Facility, or as a result of the issuance of any approvals, certificates, or acceptances for the development or use of any portion of the Joint Facility, or as a result of the design of the Joint Facility or the operation or maintenance of the Glen Ellyn Heights Pressure Adjusting Station or the common areas of the Joint Facility; and (b) the Commission's review and approval of any such plans and issuance of any such approvals, certificates, or acceptances does not, and shall not, in any way be deemed to insure DuPage County, or any respective successors,

assigns, tenants, or licensees, or any third party, against damage or injury of any kind at any time.

SECTION FOUR: APPROVAL OF EASEMENT PREMISES

A. Subject to the terms, conditions, and limitations of this Section Four, the Commission hereby agrees that it shall not object to the location of the Glen Ellyn Heights Metering Station Site, the Joint Facility Site, or the Easement Premises.

B. In the event the Easement Agreement is ever terminated or DuPage County's or the Commission's legal interest in or legal authority concerning the use of the Glen Ellyn Heights Metering Station Site for the Glen Ellyn Heights Metering Station in the manner provided in the Easement Agreement or the use of the Easement Premises for the Glen Ellyn Heights Pressure Adjusting Station or the Joint Facility is, for any reason, terminated or deemed or interpreted to be invalid, insufficient or nonexistent, the Commission shall remove the Glen Ellyn Heights Metering Station from the Glen Ellyn Heights Metering Station Site, with or without relocation or replacement, at DuPage County's sole cost and expense.

C. In the event the Glen Ellyn Heights Metering Station is removed from the Glen Ellyn Heights Metering Station Site, the Commission shall not be obligated to relocate or replace the Glen Ellyn Heights Metering Station unless and until (i) DuPage County shall have provided to the Commission a replacement site for the Glen Ellyn Heights Metering Station meeting the same requirements provided in Subsection 5A of the DuPage County Contract for the original site, and (ii) the Commission and DuPage County, by separate written contract, shall establish mutually agreeable terms between them for such relocation or replacement, including without limitation requiring, and establishing a schedule for, the relocation or replacement of the Glen Ellyn Heights Metering Station by the Commission at

DuPage County's sole cost and expense; the relocation or replacement by DuPage County of the Glen Ellyn Heights Pressure Adjusting Station and the construction and installation of any other DuPage County Unit System Connection Facilities required as a result of the relocation or replacement of the Glen Ellyn Heights Metering Station; and the construction and installation by the Commission, at DuPage County's sole cost and expense, of any additional Commission Connection Facilities required as a result of the relocation or replacement of the Glen Ellyn Heights Metering Station. The schedule for such construction and installation shall not unreasonably disrupt or interfere with the Commission's operations, and the Commission will make a diligent effort to have its facilities completed to the new Point of Delivery for the Glen Ellyn Heights Service Area by the time established in the schedule for the delivery of Lake Water, but the Commission does not, and shall not, in any way guaranty delivery by such date.

D. Notwithstanding any requirement of the DuPage County Contract to the contrary, the Commission shall have no obligation to deliver Lake Water to the DuPage County Unit System for the Glen Ellyn Heights Service Area following such termination or determination or interpretation of invalidity, insufficiency, or nonexistence unless and until (i) the Glen Ellyn Heights Metering Station shall have been relocated or replaced by the Commission; (ii) any additional DuPage County Unit System Connection Facilities for the Glen Ellyn Heights Service Area required as a result of the relocation or replacement of the Glen Ellyn Heights Metering Station shall have been completed by DuPage County; and (iii) any additional Commission Connection Facilities required as a result of the relocation or replacement of the Glen Ellyn Heights Metering Station shall have been completed by the Commission. Notwithstanding the fact that the Commission shall have no obligation to deliver Lake Water to the DuPage County Unit System for the Glen Ellyn Heights Service

Area during the period between such termination or determination or interpretation of invalidity, insufficiency, or nonexistence and the date by which all of the foregoing conditions shall have been satisfied, DuPage County hereby acknowledges and agrees that DuPage County shall continue to pay to the Commission all amounts due under the DuPage County Contract during such period as if the DuPage County Unit System were receiving its Full Water Requirements from the Commission; provided, however, that, with respect to DuPage County's obligation to pay its share of Underconsumption Costs pursuant to Subsection 7F of the Contract, such share of Underconsumption Costs shall be paid on the basis of the actual amount of Lake Water delivered to the DuPage County Unit System for the Glen Ellyn Heights Service Area from the Commission during such period.

SECTION FIVE: LEGAL RELATIONSHIPS AND REQUIREMENTS

A. This Agreement, and the Joint Facility provided by this Agreement, shall be deemed to supplement the DuPage County Contract to provide for (i) the construction and operation of the Joint Facility and (ii) the Commission's obligation to deliver and DuPage County's obligation to receive water for the Glen Ellyn Heights Service Area; the location of and property rights for the Glen Ellyn Heights Metering Station; the prices and terms of payment; DuPage County's release and indemnification of the Commission; and the schedule for completion of various facilities, in the event the Easement Agreement is ever terminated or DuPage County's or the Commission's legal interest in or legal authority concerning the use of the Glen Ellyn Heights Metering Station Site for the Glen Ellyn Heights Metering Station in the manner provided in the Easement Agreement or the use of the Easement Premises for the Glen Ellyn Heights Pressure Adjusting Station or the Joint Facility is, for any reason, terminated or deemed or interpreted to be invalid, insufficient, or nonexistent and the Glen Ellyn Heights Metering Station, the Glen Ellyn Heights Pressure

Adjusting Station, or the Joint Facility is removed, with or without relocation or replacement.

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 of the DuPage County Contract, and, if there is any conflict or inconsistency between the terms of this Agreement and the terms of the DuPage County Contract, then the terms of the DuPage County Contract shall control. DuPage County shall at all times comply with all terms and conditions of the DuPage County Contract as supplemented by this Agreement, including without limitation the making of all payments due thereunder and hereunder promptly to the Commission. Under no circumstances shall any dispute of any nature under this Agreement, or DuPage County's inability to receive water through the Glen Ellyn Heights Metering Station or the Joint Facility provided by this Agreement, excuse, delay, or in any other way affect DuPage County's performances under the DuPage County Contract, including without limitation the making of all such payments.

For purposes of the DuPage County Contract, the "Commission Connection Facilities" shall include the Glen Ellyn Heights Metering Station provided for under this Agreement and any additional facilities to be constructed and installed by the Commission pursuant to this Section Four of this Agreement.

For purposes of the DuPage County Contract, the "DuPage County Unit System Connection Facilities" shall include the Glen Ellyn Heights Pressure Adjusting Station provided for under this Agreement and any additional facilities to be constructed and installed by DuPage County pursuant to Section Four of this Agreement.

For purposes of the DuPage County Contract, the "Connection Facilities Cost" shall include the full actual cost incurred by the Commission in connection with the negotiation, preparation, consideration, and review of this Agreement, including without limitation all

legal, engineering, consulting, and administrative fees, costs, and expenses associated therewith.

Notwithstanding anything to the contrary contained in the DuPage County Contract, the Commission and DuPage County expressly acknowledge and agree that DuPage County shall not be entitled to payment or reimbursement from the Commission for the design, bidding, contracting, managing, and actual construction, installation, removal, relocation, replacement, extension, or improvement of the Joint Facility.

B. DuPage County hereby releases the Commission from, agrees that the Commission shall not be liable for, and agrees to indemnify and hold the Commission harmless from: (a) any damages occasioned by or in any way related to or resulting from any failure to supply Lake Water or any limitation on, or delay in, or interruption of, the Lake Water supply; (b) any damage to the DuPage County Unit System caused by the design of the Joint Facility or the operation or maintenance of the Glen Ellyn Heights Pressure Adjusting Station or the common areas of the Joint Facility or the removal, relocation, or replacement of the Glen Ellyn Heights Metering Station or the construction, installation, removal, relocation, or replacement of any other Connection Facility required as a result of the removal, relocation, or replacement of the Glen Ellyn Heights Metering Station; and (c) any claims, litigation, and liabilities for any loss or damage to property or any injury to, or death of, any person that may be occasioned by, connected with, or in any way attributable to, the construction and installation of the Joint Facility or the maintenance of the DuPage County Unit System, the Glen Ellyn Heights Pressure Adjusting Station, or the common areas of the Joint Facility, or the removal, relocation, or replacement of the Glen Ellyn Heights Metering Station or the construction, installation, removal, relocation, or replacement of any other Connection Facility required as a result of the removal,

relocation, or replacement of the Glen Ellyn Heights Metering Station, or to any exercise by DuPage County of any right or duty herein granted or any failure by DuPage County to exercise any such right or duty or to comply with any of the terms and conditions of this Agreement. DuPage County shall, and does hereby agree to, pay all expenses, including legal fees and administrative expenses, incurred by the Commission in defending itself with regard to any and all of the matters mentioned in this Section 5B.

C. The Commission and DuPage County agree to meet and cooperate in good faith throughout the term of this Agreement to implement the letter and spirit of the provisions set forth herein. The Commission and DuPage County agree and acknowledge that further details regarding the construction and operation of the Joint Facility may be subject to a future agreement.

D. Either the Commission or DuPage County may terminate this Agreement upon 30 days advance written notice to the other in the following situations:

1. In the event the property for the Joint Facility Site is not **dedicated** to DuPage County, or an alternative location is not obtained, as provided in Subsection 3B of this Agreement, on or before October 1, 2009.

2. In the event DuPage County shall not have approved the final design of the Glen Ellyn Heights Pressure Adjusting Station and the common areas of the Joint Facility on or before October 1, 2009.

3. In the event the Commission and DuPage County are unable to agree on the award by the Commission of a contract(s) for the construction of the Joint Facility on or before October 1, 2009.

4. In the event DuPage County shall have failed or refused to increase the Cash Deposit as and when required by Subsection 3G of this Agreement.

5. In the event DuPage County shall have failed or refused to meet fully any of its obligations under this Agreement or the DuPage County Contract.

Upon termination, this Agreement shall be void and of no effect; provided, however, that DuPage County shall remain responsible for all fees, costs, and expenses incurred or accrued by the Commission prior to termination of this Agreement. The obligation of DuPage County to reimburse the Commission as required by this Agreement is unconditional and irrevocable, payable without set off or counterclaim, and irrespective of whether Lake Water is ever furnished, made available, or delivered to DuPage County through the Joint Facility, or whether the Joint Facility is completed, operable, or operating, and notwithstanding suspension, interruption, interference, reduction, or curtailment of the supply of Lake Water. In the event that, following service of such notice but before actual termination, the basis for such notice is corrected, the notice shall be considered void and of no effect, and this Agreement shall continue in full force and effect.

E. This Agreement may not be assigned by any party, in whole or in part, without the prior written consent of the other party, which consent, with respect to DuPage County, shall not be unreasonably withheld.

F. In case any one or more of the provisions contained in this Agreement should be held by a court of competent jurisdiction to be invalid, illegal, or unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired thereby; provided, however, that if the remaining parts hereof may not reasonably be construed together without the part or parts so held invalid or unenforceable, the Commission and DuPage County agree to negotiate such reasonable amendments hereto as shall be required to most nearly conform this

Agreement, as thereby amended, to the original intention of the Commission and DuPage County.

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

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

DuPage Water Commission

600 East Butterfield Road

Elmhurst, Illinois 60126-4642

Attention: Robert L. Martin

General Manager

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

County of DuPage

Public Works Department

421 North County Farm Road

Wheaton, Illinois 60187

Attention: Superintendent

And

State's Attorney's Office
503 North County Farm Road
Wheaton, Illinois 60187
Attention: Anthony Hayman

H. This Agreement shall be construed exclusively under the applicable laws, but not the conflicts of laws rules, of the State of Illinois.

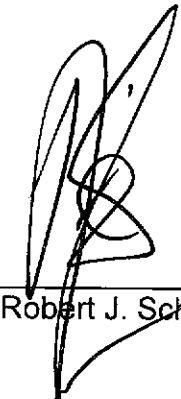
I. This Contract shall not be modified or amended in any way except in writing approved by both parties hereto. No such modification or amendment shall materially impair or adversely affect the ability or obligation of DuPage County to make payments to the Commission to meet the Commission's obligations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

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.

COUNTY OF DuPAGE

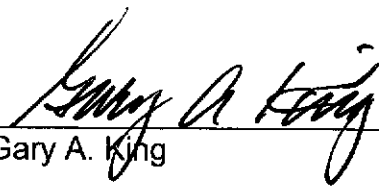
Date: 5/26/09

By:


Robert J. Schillerstrom, Chairman

(SEAL)

ATTEST: By:


Gary A. King

DuPAGE WATER COMMISSION

Date: _____

By: _____

Chairman

(SEAL)

ATTEST: By: _____

Clerk

DuPAGE COUNTY PUBLIC WORKS

By:

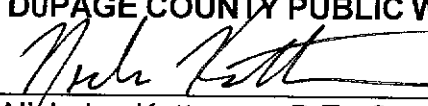
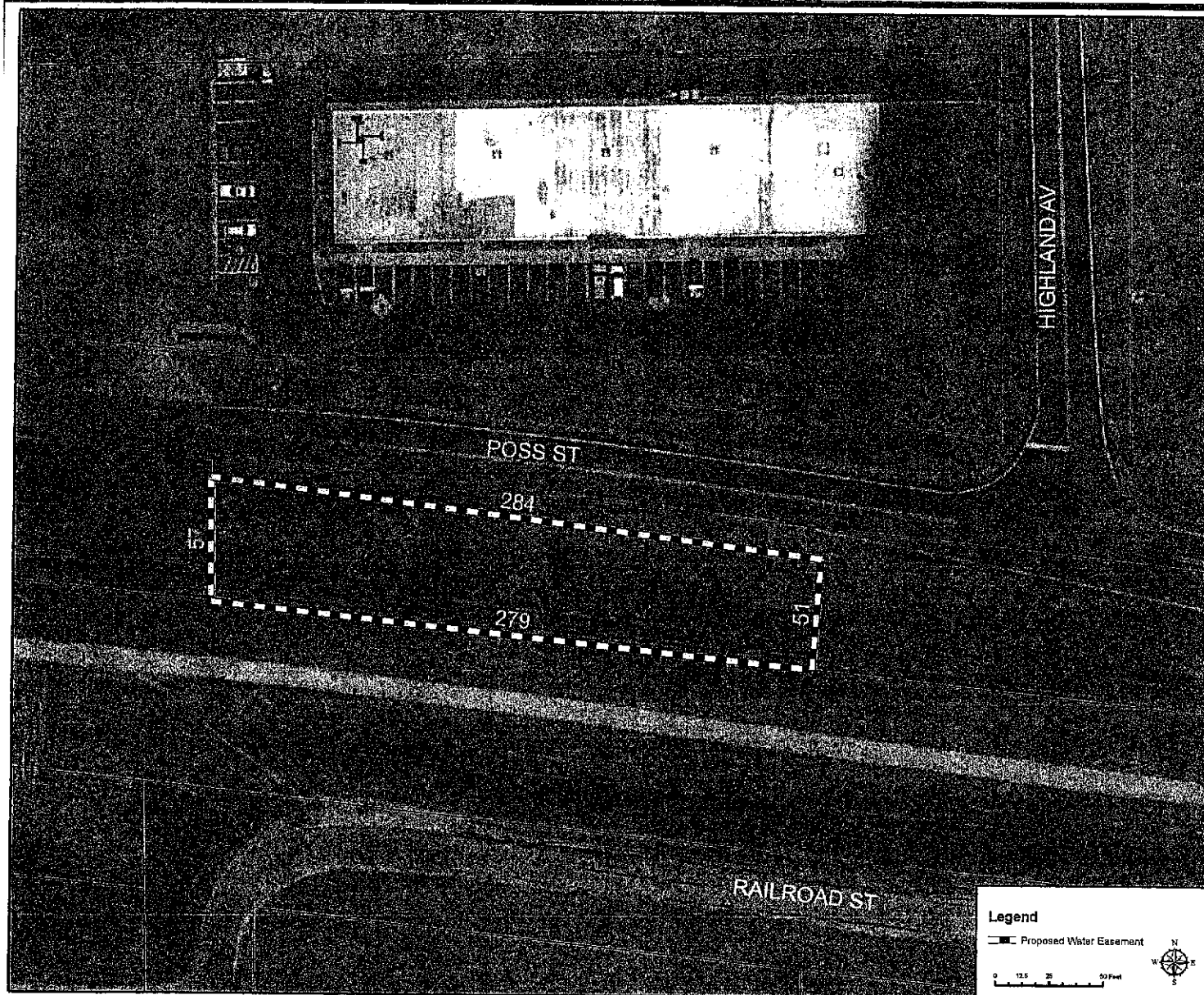

Nicholas Kottmeyer P.E., Superintendent of Public Works

EXHIBIT A

Property map and legal

Glen Ellyn Heights Lake Michigan Metering Station
05-02-323-004



THAT PART OF THE EAST HALF OF THE SOUTHWEST QUARTER OF SECTION 2, TOWNSHIP 39 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED BY COMMENCING AT THE INTERSECTION OF THE SOUTH LINE OF VACATED POSS STREET, RECORDED IN BOOK 6, PAGE 51 OF MISCELLANEOUS RECORDS IN THE OFFICE OF THE RECORDER OF THE COUNTY OF DUPAGE WITH THE WEST LINE OF THE EAST HALF OF THE SOUTHWEST QUARTER OF SAID SECTION 2; THENCE SOUTH 01 DEGREES 21 MINUTES 26 SECONDS EAST ALONG SAID WEST LINE A DISTANCE OF 8.55 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 82 DEGREES 48 MINUTES 01 SECONDS EAST A DISTANCE OF 284.00 FEET; THENCE SOUTH 03 DEGREES 20 MINUTES 47 SECONDS WEST A DISTANCE OF 51.00 FEET TO THE NORTH LINE OF THE GREAT WESTERN TRAIL; THENCE NORTH 83 DEGREES 55 MINUTES 33 SECONDS WEST ALONG THE NORTH LINE OF SAID GREAT WESTERN TRAIL A DISTANCE OF 279.00 FEET TO A POINT ON THE WEST LINE OF THE EAST HALF OF THE SOUTHWEST QUARTER OF SAID SECTION 2; THENCE NORTH 01 DEGREES 21 MINUTES 26 SECONDS WEST ALONG SAID WEST LINE A DISTANCE OF 57.00 FEET TO THE POINT OF BEGINNING IN DUPAGE COUNTY, ILLINOIS.

EXHIBIT B

Easement Agreement

DUPAGE WATER COMMISSION

METERING STATION

EASEMENT AGREEMENT

(DuPage County Glen Ellyn Heights MS-9A)

PERMANENT REAL ESTATE TAX INDEX NO. part of 05-02-323-004

Prepared by and Mail to:

Maureen A. Crowley

Staff Attorney

DuPage Water Commission

600 East Butterfield Road

Elmhurst, Illinois 60126

METERING STATION

EASEMENT AGREEMENT

(DuPage County Glen Ellyn Heights MS-9A)

THIS EASEMENT AGREEMENT, made and entered into as of this ____ day of _____, 200_, 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 DUPAGE COUNTY "the Customer", a unit of local government 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, a unit of local government created and existing under the laws of the State of Illinois and a customer of the Commission have entered into a certain Water Purchase and Sale Contract, dated as of July 13, 2006 (the "DuPage County Contract"), as supplemented by a certain Intergovernmental Agreement Concerning the Construction and Operation of a Joint Facility for the Glen Ellyn Heights Service Area, dated as of _____, 2009 (the "Joint Facility Agreement"); and

WHEREAS, the Joint Facility Agreement provides that the Commission is to furnish, install, own, operate, maintain, and repair certain equipment and devices, together with certain structures and portions of its water distribution main, 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 at the connection point for the Glen Ellyn Heights Service Area provided for under the Joint Facility Agreement (collectively referred to as the "Metering Station"); and

WHEREAS, the Joint Facility Agreement provides that the Metering Station is to be located at a site selected and provided by the Customer, subject to review and approval by the Commission; and

WHEREAS, the Customer has selected the site legally described in Exhibit 1 attached hereto and by this reference incorporated herein and made a part hereof (the "Metering Station Easement Premises") for the location of the Metering Station as generally depicted in Exhibit 2 attached hereto and by this reference incorporated herein and made a part hereof; and

WHEREAS, the Commission has reviewed the Metering Station Easement Premises and approved the same for the location of the Metering Station; and

WHEREAS, the Commission has submitted to the Customer for review the drawings and specifications for the Metering Station; and

WHEREAS, the Easement Premises are located in unimproved public right-of-way and the Customer is the owner of the Easement Premises and will grant an easement for the Metering Station Easement Premises; and

WHEREAS, the Commission desires to enter into this Easement Agreement the Customer in order to provide the Commission with a sufficient property interest in the Metering Station Easement Premises to fulfill the provisions and purpose of the DuPage County Contract, as supplemented by the Joint Facility Agreement; and

WHEREAS, the Commission has duly adopted its Ordinance No. O-3-09, being "An Ordinance Requesting the Intergovernmental Transfer of Easement Rights for the DuPage County Glen Ellyn Heights Metering Station MS-9A Site and Authorizing the Execution of the DuPage County Glen Ellyn Heights Metering Station Easement Agreement," pursuant to the Local Government Property Transfer Act, 50 ILCS 605/0.01 et seq.; and

WHEREAS, the Customer has duly adopted its Resolution No.PW-0009-09, being "A Resolution Approving the Intergovernmental Transfer of Easement Rights to the DuPage Water Commission," pursuant to the Local Government Property Transfer Act, 50 ILCS 605/0.01 et seq.;

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 the Intergovernmental Cooperation Act, 5 ILCS 220/1 et seq., 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 Metering Station at, in, under, and upon the Metering Station Easement Premises, 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.
3. The Metering Station shall be not located, constructed, or maintained in any manner not in substantial conformity with Exhibit 2 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 Subject Property.

5. After construction of the Metering Station, the Metering Station Easement Premises shall be restored in accordance with the drawings and specifications for the Metering Station.

6. The Customer hereby reserves the right to use the Metering Station Easement Premises, 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 Metering Station Easement Premises without the express prior written consent of the Commission, nor shall the Customer permanently or temporarily improve, damage, or obstruct the Metering Station 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 or damages to persons or property which may arise directly from the negligence of the Customer, or its agents or employees, in performing any work on the Metering Station Easement Premises in conjunction with its rights pursuant to Paragraph 7 hereof, and the Commission agrees to indemnify and defend the Customer] with respect to any and all claims of damages to persons or property which may arise directly from the negligence of the Commission, or its agents or employees, in performing any work on the Metering Station Easement Premises in conjunction with its rights pursuant to Paragraphs 2, 5, 6, and 7 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. Customer represents and warrants that it shall take all necessary action so that the easement contemplated by this Easement Agreement shall be released from all liens, including but not limited to the lien of all mortgages, mechanics' lien claims, security agreements, and assignments of rents and leases, and shall execute all such documents as may be reasonably necessary to perfect the Commission's right, title and interest therein.

9. This Easement Agreement shall constitute and stand in the place of all Customer permits required by the Commission or its contractor to construct, furnish, install, own, operate, maintain, test, inspect, repair, remove, or replace the Metering Station at, in, under, and upon the Metering Station Easement Premises, and 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 Metering Station.

10. Upon the expiration of the term of this Easement Agreement as provided in Paragraph 2 hereof without renewal, or in the event that DuPage County 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 easement rights hereby granted. The Commission shall, within said 90 day period, and at the Customer's expense,

remove the Metering Station from the Metering Station Easement Premises. If the Commission fails to remove the Metering Station, as aforesaid, the Customer may take title to the Metering Station.

In the event the Easement Agreement is ever terminated or the Customer's or the Commission's legal interest in or legal authority concerning the use of the Easement Premises for the Metering Station in the manner provided in the Easement Agreement is, for any reason, terminated or deemed or interpreted to be invalid, insufficient or nonexistent, the Commission shall remove the Metering Station from the Easement Premises at the Customer's sole cost and expense.

11. 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.

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

DUPAGE WATER COMMISSION

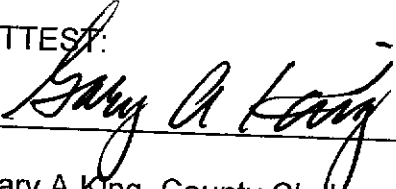
ATTEST:

_____ By: _____

General Manager

COUNTY OF DuPAGE

ATTEST:



Gary A King, County Clerk

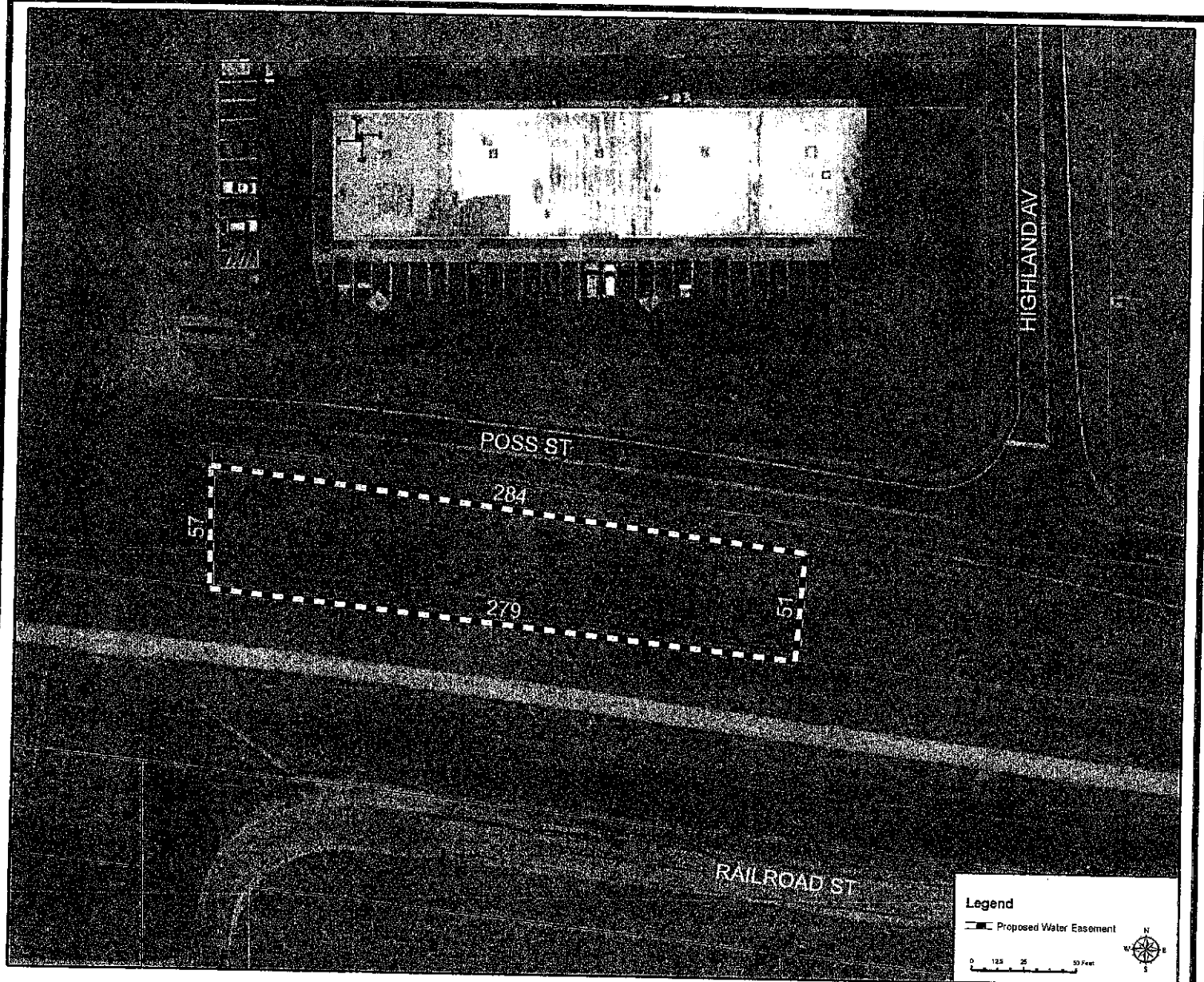
BY: _____


Robert J. Schillerstrom, Chairman

EXHIBIT 1

LEGAL DESCRIPTION OF THE METERING STATION EASEMENT PREMISES

Glen Ellyn Heights Lake Michigan Metering Station
05-02-323-004



THAT PART OF THE EAST HALF OF THE SOUTHWEST QUARTER OF SECTION 2, TOWNSHIP 39 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED BY COMMENCING AT THE INTERSECTION OF THE SOUTH LINE OF VACATED POSS STREET, RECORDED IN BOOK 6, PAGE 51 OF MISCELLANEOUS RECORDS IN THE OFFICE OF THE RECORDER OF THE COUNTY OF DUPAGE WITH THE WEST LINE OF THE EAST HALF OF THE SOUTHWEST QUARTER OF SAID SECTION 2; THENCE SOUTH 01 DEGREES 21 MINUTES 26 SECONDS EAST ALONG SAID WEST LINE A DISTANCE OF 8.55 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 82 DEGREES 48 MINUTES 01 SECONDS EAST A DISTANCE OF 284.00 FEET; THENCE SOUTH 03 DEGREES 20 MINUTES 47 SECONDS WEST A DISTANCE OF 51.00 FEET TO THE NORTH LINE OF THE GREAT WESTERN TRAIL; THENCE NORTH 83 DEGREES 55 MINUTES 33 SECONDS WEST ALONG THE NORTH LINE OF SAID GREAT WESTERN TRAIL A DISTANCE OF 279.00 FEET TO A POINT ON THE WEST LINE OF THE EAST HALF OF THE SOUTHWEST QUARTER OF SAID SECTION 2; THENCE NORTH 01 DEGREES 21 MINUTES 26 SECONDS WEST ALONG SAID WEST LINE A DISTANCE OF 57.00 FEET TO THE POINT OF BEGINNING IN DUPAGE COUNTY, ILLINOIS.

EXHIBIT 2

PLANS FOR THE LOCATION OF THE METERING STATION

EXHIBIT 2

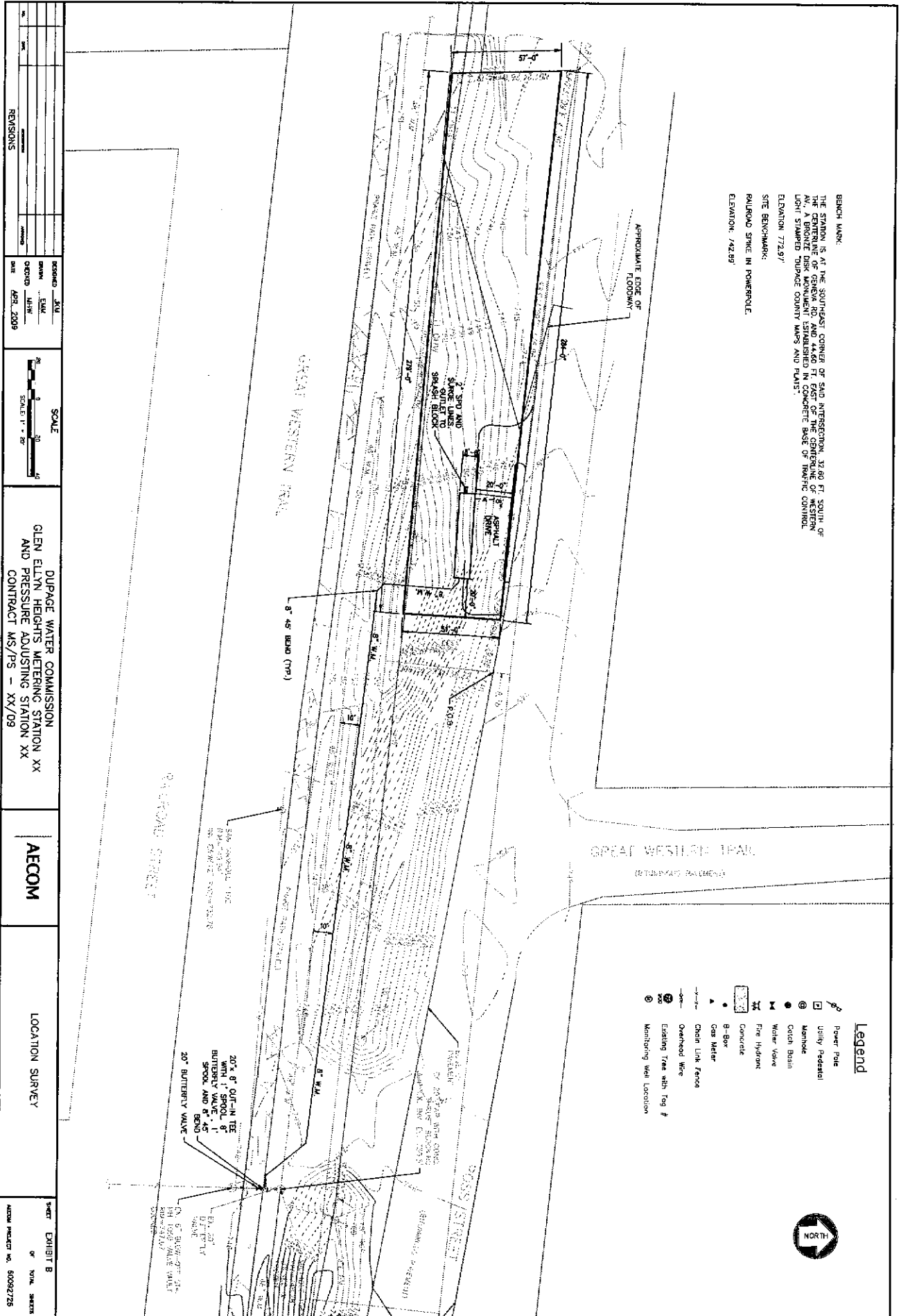
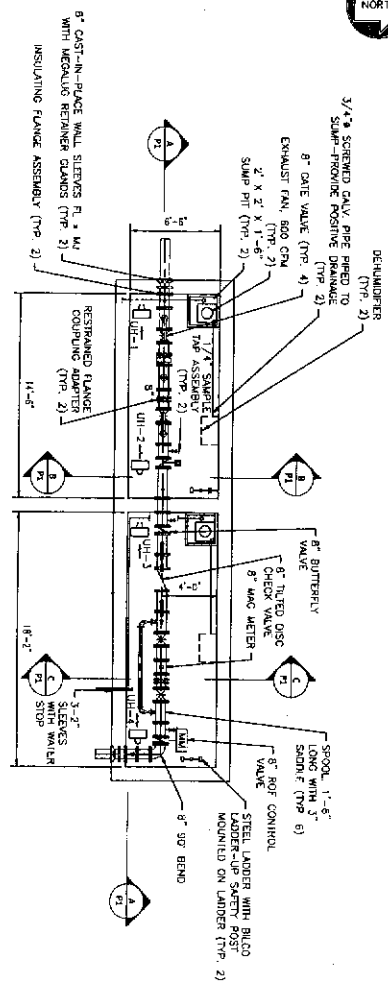
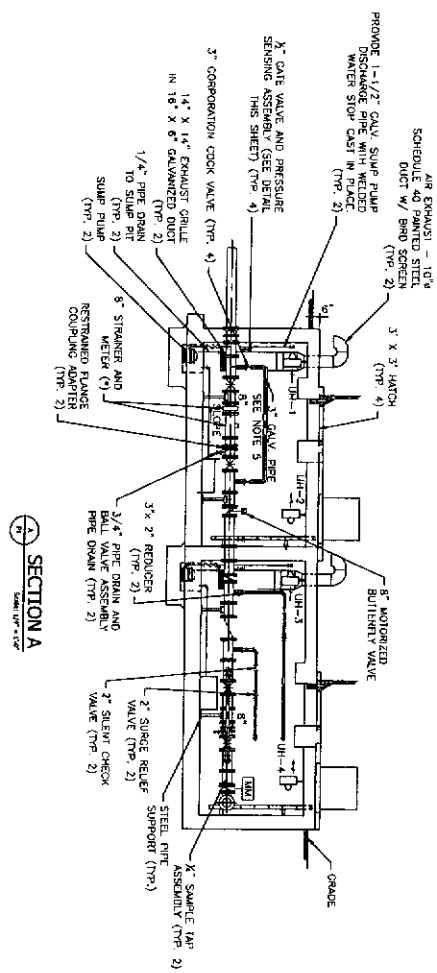


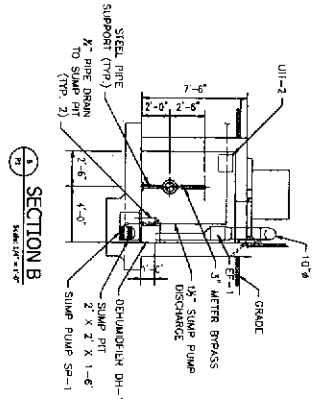
EXHIBIT 2



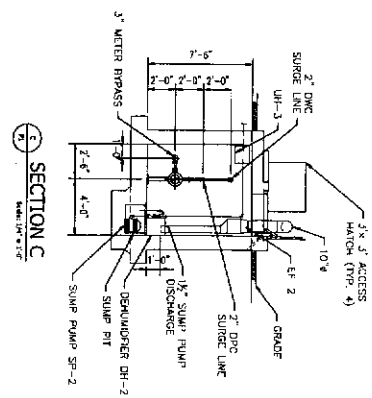
INTERIOR PLAN
SCALE: 1" = 1'-0"



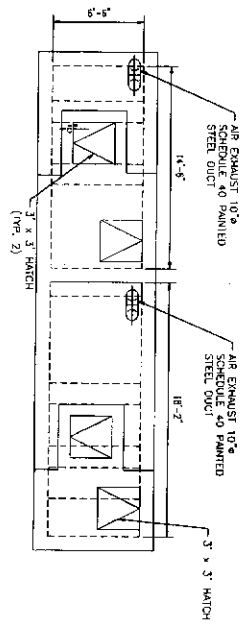
SECTION A
SCALE: 1" = 1'-0"



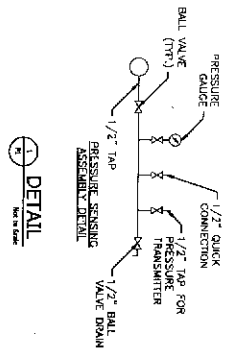
SECTION B
SCALE: 1" = 1'-0"



SECTION C
SCALE: 1" = 1'-0"



TOP PLAN
SCALE: 1" = 1'-0"



DETAIL
SCALE: 1" = 1'-0"

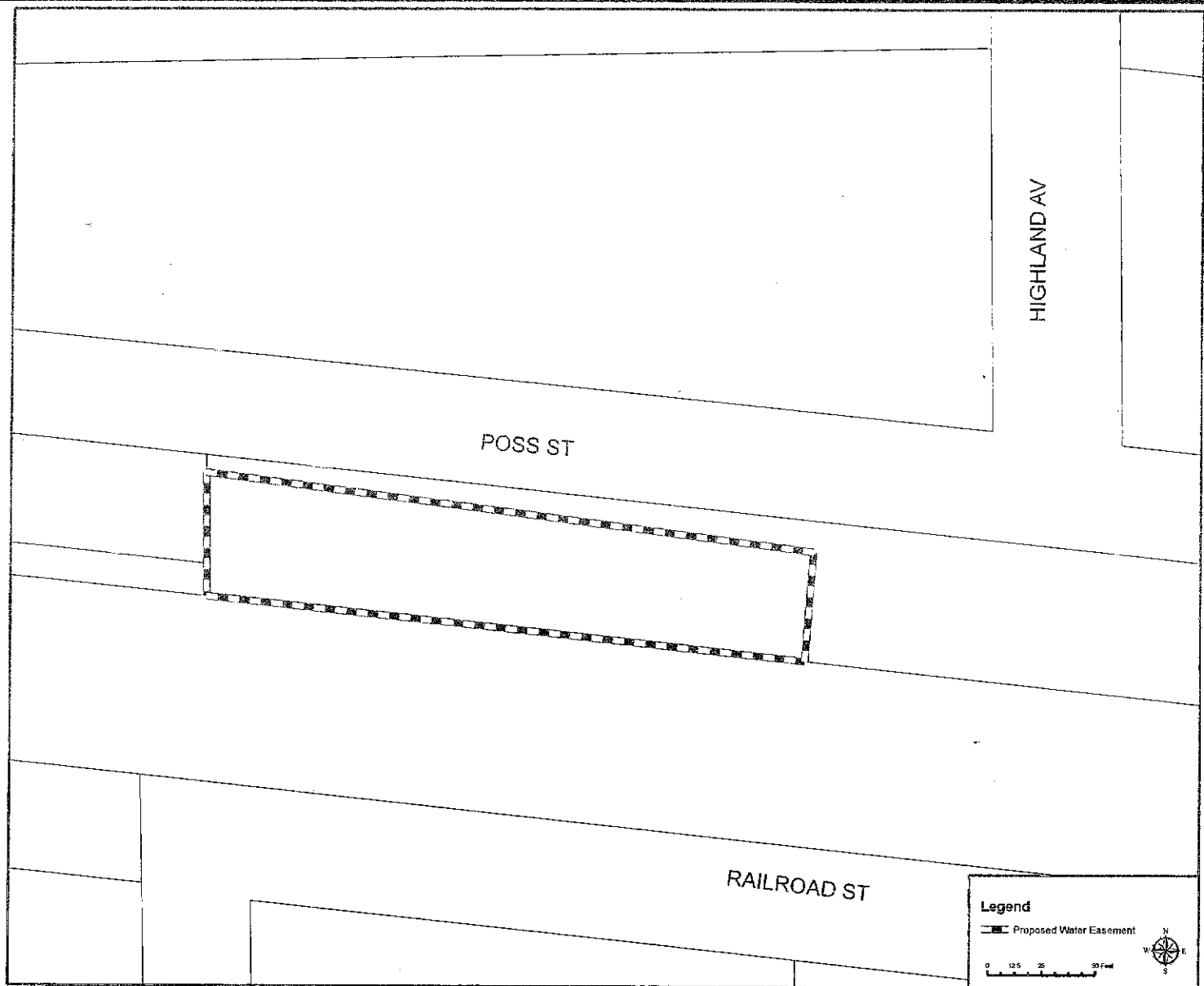
- NOTES:
1. LIMIT OF CONTRACT: 10 FEET OUTSIDE PRESSURE PLANT OR CAN BE AS NECESSARY ON END OF PIPE UNLESS COUNTY MAIN PIPE IS IN PLACE, IN WHICH CASE, CONNECT TO PIPE.
 2. OUTLET/INLET NOTED.
 3. UTILIZE WALL CASTINGS WITH WATER STOPS PER SPECIFICATION SECTION 15020 FOR ALL PROCESS PIPING PENETRATIONS THROUGH EXTERIOR WALLS.
 4. MOUNT GUIDES AND TRANSDUCERS ON WALLS AS NEEDED TO TRANSITION BETWEEN PIPE MATERIALS.
 5. PROVIDE COUPLINGS, ADAPTERS, UNIONS, ETC. AS NEEDED TO TRANSITION BETWEEN PIPE MATERIALS.
 6. (*) TO BE PROVIDED BY OWNER.

REVISIONS	DATE	BY	CHKD	SCALE	PROCESS AND MECHANICAL PLANS, SECTIONS AND NOTES	SHEET
1	APRIL 2009	XXX	XXX	AS NOTED		1
2						2
3						3
4						4
5						5
6						6
7						7
8						8
9						9
10						10
11						11
12						12
13						13
14						14
15						15
16						16
17						17
18						18
19						19
20						20
21						21
22						22
23						23
24						24
25						25
26						26
27						27
28						28
29						29
30						30
31						31
32						32
33						33
34						34
35						35
36						36
37						37
38						38
39						39
40						40
41						41
42						42
43						43
44						44
45						45
46						46
47						47
48						48
49						49
50						50
51						51
52						52
53						53
54						54
55						55
56						56
57						57
58						58
59						59
60						60
61						61
62						62
63						63
64						64
65						65
66						66
67						67
68						68
69						69
70						70
71						71
72						72
73						73
74						74
75						75
76						76
77						77
78						78
79						79
80						80
81						81
82						82
83						83
84						84
85						85
86						86
87						87
88						88
89						89
90						90
91						91
92						92
93						93
94						94
95						95
96						96
97						97
98						98
99						99
100						100

EXHIBIT 3

LEGAL DESCRIPTION OF SUBJECT PROPERTY

Glen Ellyn Heights Lake Michigan Metering Station
05-02-323-004



THAT PART OF THE EAST HALF OF THE SOUTHWEST QUARTER OF SECTION 2, TOWNSHIP 39 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED BY COMMENCING AT THE INTERSECTION OF THE SOUTH LINE OF VACATED POSS STREET, RECORDED IN BOOK 6, PAGE 51 OF MISCELLANEOUS RECORDS IN THE OFFICE OF THE RECORDER OF THE COUNTY OF DUPAGE WITH THE WEST LINE OF THE EAST HALF OF THE SOUTHWEST QUARTER OF SAID SECTION 2; THENCE SOUTH 01 DEGREES 21 MINUTES 26 SECONDS EAST ALONG SAID WEST LINE A DISTANCE OF 8.55 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 82 DEGREES 48 MINUTES 01 SECONDS EAST A DISTANCE OF 284.00 FEET; THENCE SOUTH 03 DEGREES 20 MINUTES 47 SECONDS WEST A DISTANCE OF 51.00 FEET TO THE NORTH LINE OF THE GREAT WESTERN TRAIL; THENCE NORTH 83 DEGREES 55 MINUTES 33 SECONDS WEST ALONG THE NORTH LINE OF SAID GREAT WESTERN TRAIL A DISTANCE OF 279.00 FEET TO A POINT ON THE WEST LINE OF THE EAST HALF OF THE SOUTHWEST QUARTER OF SAID SECTION 2; THENCE NORTH 01 DEGREES 21 MINUTES 26 SECONDS WEST ALONG SAID WEST LINE A DISTANCE OF 57.00 FEET TO THE POINT OF BEGINNING IN DUPAGE COUNTY, ILLINOIS.

STATE OF ILLINOIS)

) SS

COUNTY OF COOK)

I, _____, a Notary Public in and for said County, in the State aforesaid, do hereby certify that Robert L. Martin, 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 _____, 200_.

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 _____ [of _____, and _____ of said _____], personally known to me to be the same person(s) whose name(s) is (are) subscribed to the foregoing instrument [as such _____ and _____, respectively,] appeared before me this day in person and acknowledged that (he) (she) (they) signed and delivered said instrument as (his) (her) (their) free and voluntary act [, and as the free and voluntary act of said _____,] for the uses and purposes therein set forth.

Given under my hand and official seal this _____ day of _____, 200__.

Notary Public

My Commission Expires:

EXHIBIT C

WATER DELIVERY DATA DUPAGE WATER COMMISSION

WATER DELIVERY DATA

DU PAGE WATER COMMISSION

Date: March 12, 2009

CUSTOMER NAME: DuPage County Glen Ellyn Heights Service Area

DELIVERY POINT (DWC NODE No.) TBD

UPSTREAM DWC METER STATION NO. & LOCATION: MS-9a

TYPE OF CUSTOMER'S FACILITY REQUIRED: Type C Rate Control Station

LOCATION AT: Poss Street and Highland Avenue in Unincorporated Milton Township

DWC DESIGN MINIMUM HYDRAULIC GRADE* (USGS DATUM): 881.0'

CUSTOMER'S SYSTEM OVERFLOW ELEV. AND/OR REQUIRED HEAD**: 854'

CUSTOMER'S STORAGE FACILITY: 250,000 Gallons

DWC BENCHMARK LOCATION & ELEVATION: TBD

HYDRAULIC DATA

	Flow Rate @ Customer's Facility MGD	DWC Hydraulic Grade 10 ft. Downstream of DWC Meter Station USGS Datum
2008 Ave. Day	.204	
2008 Max. Day	.347	
2020 Ave. Day	.283	
2020 Max. Day	.481	881.0
2020 Peak***	2.160***	

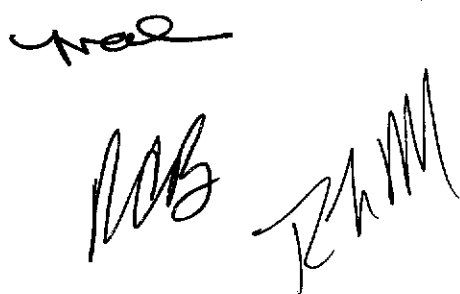
* DWC design minimum hydraulic grade will fluctuate approx. \pm 10 feet depending upon Commission's elevated storage water elevation.

** It is customer's responsibility to verify the system overflow elevation or required head.

*** 3 X 2020 average day flow or 1500 GPM minimum.

DATE: July 2, 2009

REQUEST FOR BOARD ACTION

AGENDA SECTION	Omnibus Vote Requiring Super-Majority or Special Majority Vote	ORIGINATING DEPARTMENT	Facilities Construction
ITEM	An Ordinance Amending Ordinance No. O-3-09, being "An Ordinance Approving and Authorizing the Execution of an Intergovernmental Agreement between the DuPage Water Commission and the County of DuPage Concerning the Construction and Operation of a Joint Facility for the Hobson Valley (Greene Road) Service Area" Ordinance No. O-10-09	APPROVAL	

The County of DuPage requested that the Commission design and construct the County's Pressure Adjusting Station for the Hobson Valley (Greene Road) Service Area to avoid duplication of construction activities and unnecessary public disruption that would be associated with the construction of the Commission's Metering Station at the same location. In addition, the County requested that the Metering Station and Pressure Adjusting Station be constructed as a joint facility in one monolithic, cast in place concrete structure rather than as separate facilities. Finally, the County proposed that the Joint Facility be located within unimproved public right-of-way, that, at the time, DuPage County planned to either purchase or lease.

Because these requests deviate from the requirements of the existing Water Purchase and Sale Contract between the Commission and the County, a special intergovernmental agreement is needed to address each party's additional responsibilities and obligations. This special intergovernmental agreement also needs to minimize the Commission's liability for future relocations of the Metering Station because the County's proposed site is located in the public right-of-way, exposing the Commission to claims that the Metering Station constitutes an unauthorized obstruction of the public right-of-way in violation of the public trust, as well as to the County's statutory authority to request relocation whenever deemed necessary by the County for highway or highway safety purposes.

Pursuant to Resolution No. O-3-09, adopted on March 12, 2009, the Board approved the form of the special intergovernmental agreement, which was substantially the same as agreements the Commission has used with other customers that proposed joint Metering/Pressure Adjusting Station facilities and, on the odd occasion, Metering Stations located within public rights-of-way. Since that time, the County changed the location of the proposed Metering

AGENDA SECTION	Omnibus Vote Requiring Super-Majority or Special Majority Vote	ORIGINATING DEPARTMENT	Facilities Construction
ITEM	<p>An Ordinance Amending Ordinance No. O-3-09, being "An Ordinance Approving and Authorizing the Execution of an Intergovernmental Agreement between the DuPage Water Commission and the County of DuPage Concerning the Construction and Operation of a Joint Facility for the Hobson Valley (Greene Road) Service Area"</p> <p>Ordinance No. O-10-09</p>	APPROVAL	
<p>Station site within the public right-of-way that the County owns, reduced the size of the Commission's Metering Station easement to accommodate the County's plans to expand the improved portion of the 75th Street right-of-way, and made other changes to the form of intergovernmental agreement approved by the Board.</p> <p>Resolution No. O-10-09 would amend Ordinance No. O-3-09 to evidence the Board's approval of the Intergovernmental Agreement in the form executed by the County subject to approval by the DuPage County Board of the guarantee set forth in the June 25, 2009, letter from DuPage County Board Chairman Schillerstrom (copy attached).</p>			
MOTION: To adopt Ordinance No. O-10-09.			



ROBERT J. SCHILLERSTROM
COUNTY BOARD CHAIRMAN

DuPage County

(630) 407-6060

June 25, 2009

Mr. Robert L. Martin, P.E.
General Manager
DuPage Water Commission
600 E. Butterfield Road
Elmhurst, IL 60126

RE: Water Commission Connection Request
Hobson Valley & Glen Ellyn Heights Water Systems

Dear Mr. Martin:

On May 26, 2009, the DuPage County Board approved agreements between the DuPage Water Commission and the County concerning the construction and operation of joint facilities and the associated easement agreements for the Hobson Valley and Glen Ellyn Heights water systems. These agreements, once approved by the Water Commission, will allow the County to transition these two water systems from well water to Lake Michigan water. As you are aware, bringing Lake Michigan water to all of the residents of DuPage County remains a top priority of the County.

The Water Commission has expressed concerns regarding the easement agreement related to the Hobson Valley metering station. The easement approved by the County for this facility is approximately 30 feet by 68 feet in size and is located 40 feet back from the edge of pavement of 75th Street. Based upon the design completed by Water Commission engineers, this easement is sufficient in size to construct and operate the proposed metering station. In addition, all other agreement concessions as requested by the Water Commission have been incorporated into the approved documents.

It appears the only remaining area of concern raised by the Water Commission staff relates to the setback distance of the facility from 75th Street. As stated previously, the approved easement is located 40 feet from the edge of pavement, with the actual facility located over 50 feet from the edge of pavement. As we have discussed, over the next 15 years the County may expand 75th Street from a four-lane road to a six-lane road, bringing the pavement about 12 feet closer to the metering station. The concern raised by the Water Commission would be that if more than one northbound lane is added in the future, or if the entire road is re-aligned, either of these two scenarios could potentially create a safety concern related to metering station maintenance activities.

It should be noted no scenario can be justified that would warrant 75th Street becoming an eight-lane road. In addition, the need, as well as the funding for the realignment of 75th Street is non-

Robert L. Martin
June 25, 2009
Page 2 of 2

existent. However, in order to satisfy the concerns of the Water Commission, the County is willing to offer the following guarantee:

In the event 75th Street is widened to more than a six-lane road, or 75th Street is re-aligned in a manner that adversely affects the operation and maintenance of the metering station, the DuPage County Department of Public Works will be responsible for all costs associated with the relocation of the Hobson Valley metering station. It will be at the sole discretion of the DuPage Water Commission to determine if an adverse or unsafe condition has been created. DuPage County will relocate the Hobson Valley metering station in accordance with the terms set forth in the Hobson Valley Joint Facility Agreement.

We trust this DuPage County guarantee will satisfy the concerns of the Water Commission and this letter will suffice in acknowledging the guarantee of the County. We are requesting both the Hobson Valley and the Glen Ellyn Heights Service Area agreements be brought before the next Water Commission meeting for final approval. In addition, we would ask that once these agreements have been approved they are bid as soon as possible. Should this schedule not be possible, we would request you arrange a meeting with the County to discuss the situation in further detail. The DuPage County residents in both of these service areas are anticipating the availability of Lake Michigan water by this fall.

The signed DuPage County agreements have been attached for your signature. Once you sign these documents, please send them back to the attention of Mr. Kottmeyer so they can be recorded by the County Clerk.

Thank you for your prompt attention to this matter.

Sincerely,



Robert J. Schillerstrom
Chairman
DuPage County Board

cc: S. Louis Rathje, Chairman DuPage Water Commission
James Zay, DuPage Water Commission Board Member, Dist. 6 County Board Member
Debra Olson, Dist. 4 County Board Member
John Kos, P.E. – Director of Transportation & Operations
Nicholas Kottmeyer, P.E. – Superintendent of Public Works
Kevin Buoy, Public Works Operations Manager

DUPAGE WATER COMMISSION

ORDINANCE NO. O-10-09

AN ORDINANCE AMENDING ORDINANCE NO. O-3-09, BEING
"AN ORDINANCE APPROVING AND AUTHORIZING THE EXECUTION OF AN
INTERGOVERNMENTAL AGREEMENT BETWEEN THE DUPAGE WATER
COMMISSION AND THE COUNTY OF DUPAGE CONCERNING THE
CONSTRUCTION AND OPERATION OF A JOINT FACILITY FOR
THE HOBSON VALLEY (GREENE ROAD) SERVICE AREA"

WHEREAS, pursuant to Ordinance No. O-3-09, being "An Ordinance Approving and Authorizing the Execution of an Intergovernmental Agreement between the DuPage Water Commission and the County of DuPage Concerning the Construction and Operation of a Joint Facility for the Hobson Valley (Greene Road) Service Area" ("Ordinance No. O-3-09"), the Commission approved an Intergovernmental Agreement with the County of DuPage that (1) provided for the Commission to design and construct the County's Pressure Adjusting Station for the Hobson Valley (Greene Road) Service Area to avoid duplication of construction activities and unnecessary public disruption that would be associated with the construction of the Commission's Metering Station at the same location, (2) provided for the Commission's Metering Station and the County's Pressure Adjusting Station to be constructed as a joint facility in one monolithic, cast in place concrete structure rather than as separate facilities, and (3) provided for the joint facility to be located within unimproved public right-of-way that the County would either purchase or lease; and

WHEREAS, since that time, the County changed the location of the proposed Metering Station site within the public right-of-way that the County owns, reduced the size of the Commission's Metering Station easement to accommodate the County's plans to expand the improved portion of the 75th Street right-of-way, and made other changes to the form of intergovernmental agreement approved by the Commission;

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: Section Two of Ordinance No. O-3-09 shall be and it hereby is amended in its entirety so that said Section Two shall hereafter be and read as follows:

"SECTION TWO: An Intergovernmental Agreement between the DuPage Water Commission and the County of DuPage Concerning the Construction and Operation of a Joint Facility for the Hobson Valley (Greene Road) Service Area, in substantially the form attached hereto and by this reference incorporated herein and made a part hereof as Exhibit 1, shall be and it hereby is approved (the "Joint Facility Agreement") subject to approval by the DuPage County Board of the guarantee set forth in the June 25, 2009, letter from DuPage County Board Chairman Schillerstrom to the General Manager of the DuPage Water Commission (the "Guarantee")."

SECTION THREE: Section Three of Ordinance No. O-3-09 shall be and it hereby is amended in its entirety so that said Section Three shall hereafter be and read as follows:

"SECTION THREE: The Chairman and the Clerk of the DuPage Water Commission shall be and they hereby are authorized and directed to execute and attest, respectively, the Joint Facility Agreement, in substantially the form attached hereto as Exhibit 1; provided, however, that the Joint Facility Agreement shall not be so executed nor attested on behalf of the DuPage Water Commission unless and until (a) the Chairman shall have been presented with copies of the Joint Facility Agreement executed by the County of DuPage, (b) the Commission shall have received the Cash Deposit required pursuant to Subsection 3G of the Joint Facility Agreement, and (c) the Chairman shall have been presented with satisfactory evidence of the approval by the DuPage County Board of the Guarantee."

SECTION FOUR: Exhibit 1, entitled "An Intergovernmental Agreement between the DuPage Water Commission and the County of DuPage Concerning the Construction and Operation of a Joint Facility for the Hobson Valley (Greene Road) Service Area," to Ordinance No. O-3-09 shall be and it hereby is amended in its entirety so that said Exhibit 1 shall hereafter be and read as set forth in the Exhibit 1 attached hereto and by this

Ordinance No. O-10-09

reference incorporated herein and made a part hereof. Any and all references to said Exhibit 1 in Ordinance No. O-3-09 shall hereafter be deemed to refer to the Exhibit 1 attached hereto.

SECTION FIVE: Except as hereinabove amended, Ordinance No. O-3-09 shall remain in full force and effect.

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

AYES:

NAYS:

ABSENT:

ADOPTED this _____ day of _____, 2009.

ATTEST:

Chairman

Clerk

Board/Ordinances/O-10-09.doc

EXHIBIT 1

INTERGOVERNMENTAL AGREEMENT BETWEEN THE
DuPAGE WATER COMMISSION AND THE COUNTY OF DuPAGE
CONCERNING THE CONSTRUCTION AND OPERATION OF A JOINT
FACILITY FOR THE HOBSON VALLEY (GREENE ROAD) SERVICE AREA

THIS AGREEMENT, made and entered into this 26th day of May, 2009, 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 the COUNTY OF DuPAGE, a unit of local government created and existing under the laws of the State of Illinois ("DuPage County"),

WITNESSETH:

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

WHEREAS, the Commission operates a water system supplying a number of municipalities and other customers in DuPage County with water drawn from Lake Michigan (the "Commission Waterworks System"); and

WHEREAS, DuPage County owns and operates a waterworks system serving several discrete and non-contiguous service areas (the "DuPage County Unit System"); and

WHEREAS, the Commission and DuPage County have entered into a certain Water Purchase and Sale Contract dated as of July 13, 2006, for the sale by the Commission of Lake Michigan water to DuPage County to serve the various discrete and non-contiguous service areas served by the DuPage County Unit System from time to time, including the service area known as the Hobson Valley (Greene Road) Service Area (the "DuPage County Contract"); and

WHEREAS, the DuPage County Contract provides that at each Point of Delivery, as defined in the DuPage County Contract, 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 DuPage County under the DuPage County Contract (each collectively referred to as a "Metering Station"); and

WHEREAS, the DuPage County Contract provides that each Metering Station is to be located at a site owned, selected, and provided by DuPage County, subject to review and approval by the Commission (each referred to as a "Metering Station Site"); and

WHEREAS, the DuPage County Contract provides that DuPage County is to grant to the Commission all perpetual easements necessary for each Metering Station Site, in form satisfactory to the Commission's attorneys and free and clear of all liens, claims, encumbrances and restrictions, unless otherwise approved by the Commission in writing; and

WHEREAS, the DuPage County Contract provides that DuPage County is to furnish, install, own, operate, maintain, repair and replace a pressure adjusting station immediately downstream from each Point of Delivery and pipeline and equipment appurtenant thereto (each collectively referred to as a "Pressure Adjusting Station"); and

WHEREAS, DuPage County requested that the Pressure Adjusting Station at the Point of Delivery for the Hobson Valley (Greene Road) Service Area (the "Hobson Valley (Greene Road) Pressure Adjusting Station") be designed and constructed by the Commission instead of DuPage County to avoid duplication of construction activities and unnecessary public disruption; and

WHEREAS, it is in the best interest of the Commission and DuPage County to design and construct the Hobson Valley (Greene Road) Pressure Adjusting Station and the Metering Station at the Point of Delivery for the Hobson Valley (Greene Road) Service Area (the "Hobson Valley (Greene Road) Metering Station") as a joint facility (the "Joint Facility"); and

WHEREAS, DuPage County has selected the site legally described and depicted in Exhibit A attached hereto and by this reference incorporated herein and made a part hereof as the site for the Hobson Valley (Greene Road) Metering Station (the "Hobson Valley (Greene Road) Metering Station Site"), the Hobson Valley (Greene Road) Pressure Adjusting Station, and the common areas of the Joint Facility (the "Easement Premises"); and

WHEREAS, the Easement Premises are located in unimproved public right-of-way and DuPage County is the owner of the Easement Premises and will grant a permanent easement for the Hobson Valley (Greene Road) Metering Station Site; and

WHEREAS, in order to induce the Commission to accept the Hobson Valley (Greene Road) Metering Station Site for the Hobson Valley (Greene Road) Metering Station and the Easement Premises for the Joint Facility, DuPage County has represented that it has sufficient legal interest in and proper legal authority to use or permit others to use the Easement Premises for the Joint Facility and the Hobson Valley (Greene Road) Metering Station Site for the Hobson Valley (Greene Road) Metering Station in the manner provided in the Easement Agreement attached hereto and by this reference incorporated herein and made a part hereof as Exhibit B (the "Easement Agreement"); and

WHEREAS, prior to the approval of the Hobson Valley (Greene Road) Metering Station Site and the Easement Premises, the Commission and DuPage County desire to

establish by this Agreement supplemental terms under the DuPage County Contract relating to (i) the construction and operation of the Joint Facility and (ii) the Commission's obligation to deliver and DuPage County's obligation to receive water for the Hobson Valley (Greene Road) Service Area; the location of and property rights for the Hobson Valley (Greene Road) Metering Station; the prices and terms of payment; DuPage County's release and indemnification of the Commission; and the schedule for completion of various facilities, in the event the Easement Agreement is ever terminated by DuPage County or the Commission's legal interest in or legal authority concerning the use of the Hobson Valley (Greene Road) Metering Station Site for the Hobson Valley (Greene Road) Metering Station in the manner provided in the Easement Agreement or the use of the Easement Premises for the Hobson Valley (Greene Road) Pressure Adjusting Station or the Joint Facility is, for any reason, terminated or deemed or interpreted to be invalid, insufficient, or nonexistent and the Hobson Valley (Greene Road) Metering Station, the Hobson Valley (Greene Road) Pressure Adjusting Station, or the Joint Facility is removed, with or without relocation or replacement; and

WHEREAS, pursuant to the intergovernmental cooperation provisions of Article VII, Section 10 of the Illinois Constitution of 1970 and the Illinois Intergovernmental Cooperation Act, 5 ILCS 220/1 et seq., and other applicable authority, the Commission and DuPage County are authorized to enter into this Agreement;

NOW, THEREFORE, in consideration of the foregoing recitals, which are hereby incorporated into and made a part of this Agreement, and the mutual covenants and agreements set forth below, the Commission and DuPage County hereby agree as follows:

SECTION ONE: PREAMBLES

The foregoing recitals are by this reference incorporated herein and made a part hereof as if fully set forth herein.

SECTION TWO: DEFINITIONS

Capitalized terms not otherwise defined in this Agreement shall have the meanings ascribed to them in the DuPage County Contract as supplemented by this Agreement.

SECTION THREE: CONSTRUCTION AND OPERATION OF THE JOINT FACILITY

A. For purposes of this Agreement, the "Joint Facility" shall mean a facility to convey, measure, and regulate the flow of water from the Commission Waterworks System to the portion of the DuPage County Unit System serving the Hobson Valley (Greene Road) Service Area and shall include the following:

1. A Metering Station, to be known as Metering Station 9B ("MS-9B"), for properly conveying and measuring the quantity of Lake Water delivered by the Commission to the portion of the DuPage County Unit System serving the Hobson Valley (Greene Road) Service Area, including certain equipment, devices, and structures, and portions of its water distribution main, including underground feeder pipe lines and related equipment to initially connect MS-9B to the existing Commission Waterworks System, and all antennas and appurtenant facilities for the Commission's Supervisory Control and Data Acquisition Instrumentation System attributable to MS-9B, as such facilities may be relocated, replaced, extended, or improved from time to time (the "Hobson Valley (Greene Road) Metering Station").
- 2i. A (Type C) pressure adjusting station at the Point of Delivery for the Hobson Valley (Greene Road) Service Area in accordance with the design criteria set forth in the document entitled "Water Delivery Data DuPage Water Commission" dated March 12, 2009 identifying DuPage County as "customer," a copy of which is attached hereto and by this reference incorporated herein and made a part hereof as Exhibit C (the "Hobson Valley (Greene Road) Pressure Adjusting Station").
3. Such other equipment and appurtenances as may be necessary for the operation and construction of the foregoing in conformance with the approved design plans therefor.

B. The Joint Facility is expected to be located on the site legally described in Exhibit A attached hereto as selected, and owned by DuPage County (the "Joint Facility Site"), the location of which has been reviewed and approved by the Commission subject to the terms, conditions, and limitations set forth in Section Four of this Agreement. In the event the property is not dedicated to DuPage County or is otherwise determined by the Commission and DuPage County to be unsuitable for locating the Joint Facility, DuPage County shall endeavor in good faith to obtain an alternative location for the Joint Facility Site acceptable to both the Commission and DuPage County.

C. DuPage County shall be solely responsible for the costs in designing the Joint Facility. It is understood that the Commission will be the contracting party with the design engineer and will administer the design contract for the benefit of both the Commission and DuPage County. The Commission will consult with DuPage County to keep DuPage County advised as to the progress of the design work and to address issues of mutual concern regarding the details of such design work. The final design of the Joint Facility shall be subject to the review of both the Commission and DuPage County and subject to the approval of the Commission to the extent of the Hobson Valley (Greene Road) Metering Station, DuPage County to the extent of the Hobson Valley (Greene Road) Pressure Adjusting Station, and both the Commission and DuPage County to the extent of the common areas of the Joint Facility. For the purposes of this Agreement, the common areas of the Joint Facility shall include those portions of the Joint Facility, such as the structure and area grounds, which serve the needs of both the Commission and DuPage County.

D. DuPage County shall be solely responsible for the costs in constructing the Joint Facility. The Commission shall solicit bids for the construction of the Joint Facility,

including all equipment and appurtenances necessary for the Hobson Valley (Greene Road) Metering Station and the Hobson Valley (Greene Road) Pressure Adjusting Station.

The Commission's standard form of bidding and construction contract documents shall be used and the cost of the Hobson Valley (Greene Road) Metering Station, the Hobson Valley (Greene Road) Pressure Adjusting Station, and the common areas of the Joint Facility shall be separately identified in the bidding and construction contract documents.

The Commission agrees to solicit, award, and administer all contracts for the project in the best interest of both the Commission and DuPage County and to consult with, and keep advised, DuPage County's Superintendent of Public Works, or his or her designee, regarding the progress of the work and any problems encountered or changes recommended. Both the Commission and DuPage County must agree to the award of any contract for such construction work. Upon approval of both the Commission and DuPage County, the Commission shall enter into a construction contract(s) with the selected contractor(s), and shall administer such construction contract(s) in conformance with this Agreement. It is understood that, although DuPage County will not be a party to the construction contract(s), DuPage County will be designated as a beneficiary of any insurance, guaranty, or warranty required by the construction contract(s). In addition, any change order, as well as final acceptance and approval of the completed Joint Facility, shall be subject to the approval of the Commission to the extent of the Hobson Valley (Greene Road) Metering Station, DuPage County to the extent of the Hobson Valley (Greene Road) Pressure Adjusting Station, and both the Commission and DuPage County to the extent of the common areas of the Joint Facility. Neither Party shall be required to approve or accept any portion of the Joint Facility until all portions of the Joint Facility, including all punch list items, have been fully and properly completed.

E. DuPage County shall reimburse the Commission for the full actual cost incurred by the Commission in connection with (a) the design, bidding, contracting, managing, and actual construction, installation, removal, relocation, replacement, extension, or improvement of the Joint Facility, including without limitation equipment required for the operation of the Joint Facility and all administrative, financing, supervisory, inspection, engineering, surveying, and legal fees, costs, and expenses associated therewith; (b) 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 Joint Facility, and all administrative, title, surveying, and legal fees, costs, and expenses associated therewith; and (c) the review and processing of plans and agreements for the construction, installation, removal, relocation, replacement, extension, or improvement of the Joint Facility and in connection with the negotiation, preparation, consideration, and review of this Agreement, including without limitation all legal, engineering, consulting, and administrative fees, costs, and expenses associated therewith. DuPage County shall reimburse the Commission monthly for such fees, costs, and expenses, in accordance with the provisions of Subsection 3G of this Agreement.

F. Prior to the Commission's solicitation of bids for the construction of the Joint Facility, DuPage County, without charge to the Commission, shall: (a) present the Commission with adequate evidence of merchantable fee simple title to the Joint Facility Site; (b) grant or cause to be granted to the Commission all necessary and insured easements for the Joint Facility Site, in substantially the form attached hereto and by this reference incorporated herein and made part hereof as Exhibit B and satisfactory to the Commission's attorneys, free and clear of all liens, claims, encumbrances, and restrictions

unless otherwise approved by the Commission in writing; and (c) grant to the Commission all necessary and insured easements for the appropriate location and installation of antennas and appurtenant facilities for the Commission's Supervisory Control and Data Acquisition Instrumentation System attributable to the Hobson Valley (Greene Road) Metering Station, free and clear of all liens, claims, encumbrances, and restrictions unless otherwise approved by the Commission in writing.

G. DuPage County shall, as a condition precedent to the effectiveness of the Commission ordinance approving this Agreement, deposit with the Commission cash (the "Cash Deposit") in a total amount equal to \$438,750.00 (125 percent of the Commission's estimated costs of design and constructing the Hobson Valley (Greene Road) Pressure Adjusting Station). Upon execution of all contracts necessary or required for the design and construction of the Hobson Valley (Greene Road) Pressure Adjusting Station, the Cash Deposit may be reduced from 125 percent of the Commission's estimate to 110 percent of the amount of the executed contracts attributable to the design and construction of the Hobson Valley (Greene Road) Pressure Adjusting Station. The Cash Deposit shall, at all times until released or reduced as provided below, be maintained at not less than 10 percent of the total deposit required by the preceding sentence. DuPage County shall not be entitled to interest on the Cash Deposit.

In addition, DuPage County shall reimburse the Commission for all costs incurred by the Commission in connection with: (i) the design of, and the review and approval of all plans and specifications for, the Hobson Valley (Greene Road) Metering Station and the common areas of the Joint Facility; (ii) the preparation of all bidding and contract documents for the Joint Facility; (iii) the administration of the contract for the construction of the Joint Facility; and (iv) shop drawing review and the inspection of the construction and

installation of the Hobson Valley (Greene Road) Metering Station and the common areas of the Joint Facility, including all legal, engineering, and other consulting and administrative fees, costs, and expenses. All of the foregoing fees, costs, and expenses shall be included within, and shall be paid for in accordance with, Subsection 7C of the DuPage County Contract as part of its Connection Facilities Cost.

The Commission shall review all pay requests and supporting documents and shall direct payments to be made from the Cash Deposit of all amounts then due for the Hobson Valley (Greene Road) Pressure Adjusting Station work each month. If at any time the Commission determines that the funds remaining in the Cash Deposit are not, or may not be, sufficient to pay in full the remaining unpaid cost of the Hobson Valley (Greene Road) Pressure Adjusting Station, then, within 10 days following a demand by the Commission, DuPage County shall increase the amount of the Cash Deposit to an amount reasonably determined by the Commission to be sufficient to pay 120 percent of such unpaid costs. Failure to so increase the amount of the Cash Deposit shall be grounds for the Commission to retain any remaining balance of the Cash Deposit and terminate this Agreement pursuant to Subsection 5D of this Agreement. The Commission shall release any amounts remaining in the Cash Deposit after final payment to the construction contractor unless this Agreement shall have been sooner terminated as provided in the preceding sentence.

The Cash Deposit required by this Subsection 3G shall be in addition to, and not as a credit against, the "Cash Deposit" required by Subsection 7C of the DuPage County Contract.

H. Upon acceptance and approval of the Joint Facility, ownership of the Hobson Valley (Greene Road) Pressure Adjusting Station and a bill of sale therefor shall be

conveyed to DuPage County. Immediately following such conveyance, DuPage County shall own and operate the Hobson Valley (Greene Road) Pressure Adjusting Station, the Hobson Valley (Greene Road) Pressure Adjusting Station shall become the sole and exclusive property of DuPage County, and DuPage County shall have all duty, responsibility, and liability to maintain and repair the Hobson Valley (Greene Road) Pressure Adjusting Station and the common areas of the Joint Facility and the Commission shall have no obligation or duty with respect thereto. Upon completion of the construction and installation of the Joint Facility, the Commission shall have all duty, responsibility, and liability to maintain and repair the Hobson Valley (Greene Road) Metering Station.

I. Once the Joint Facility becomes operational, the rate of withdrawal from the Joint Facility shall not exceed that portion of the rate allowed by Subsections 3A and 9M of the DuPage County Contract that is attributable to, and is based upon the Water Allocation for, the Hobson Valley (Greene Road) Service Area.

J. DuPage County acknowledges and agrees that: (a) the Commission is not, and shall not be, in any way liable for damages or injuries that may be sustained as a result of the Commission's review and approval of any plans for the Joint Facility, or as a result of the issuance of any approvals, certificates, or acceptances for the development or use of any portion of the Joint Facility, or as a result of the design of the Joint Facility or the operation or maintenance of the Hobson Valley (Greene Road) Pressure Adjusting Station or the common areas of the Joint Facility; and (b) the Commission's review and approval of any such plans and issuance of any such approvals, certificates, or acceptances does not, and shall not, in any way be deemed to insure DuPage County, or any respective successors, assigns, tenants, or licensees, or any third party, against damage or injury of any kind at any time.

SECTION FOUR: APPROVAL OF EASEMENT PREMISES

A. Subject to the terms, conditions, and limitations of this Section Four, the Commission hereby agrees that it shall not object to the location of the Hobson Valley (Greene Road) Metering Station Site, the Joint Facility Site, or the Easement Premises.

B. In the event the Easement Agreement is ever terminated or DuPage County's or the Commission's legal interest in or legal authority concerning the use of the Hobson Valley (Greene Road) Metering Station Site for the Hobson Valley (Greene Road) Metering Station in the manner provided in the Easement Agreement or the use of the Easement Premises for the Hobson Valley (Greene Road) Pressure Adjusting Station or the Joint Facility is, for any reason, terminated or deemed or interpreted to be invalid, insufficient or nonexistent, the Commission shall remove the Hobson Valley (Greene Road) Metering Station from the Hobson Valley (Greene Road) Metering Station Site, with or without relocation or replacement, at DuPage County's sole cost and expense.

C. In the event the Hobson Valley (Greene Road) Metering Station is removed from the Hobson Valley (Greene Road) Metering Station Site, the Commission shall not be obligated to relocate or replace the Hobson Valley (Greene Road) Metering Station unless and until (i) DuPage County shall have provided to the Commission a replacement site for the Hobson Valley (Greene Road) Metering Station meeting the same requirements provided in Subsection 5A of the DuPage County Contract for the original site, and (ii) the Commission and DuPage County, by separate written contract, shall establish mutually agreeable terms between them for such relocation or replacement, including without limitation requiring, and establishing a schedule for, the relocation or replacement of the Hobson Valley (Greene Road) Metering Station by the Commission at DuPage County's sole cost and expense; the relocation or replacement by DuPage County of the Hobson

Valley (Greene Road) Pressure Adjusting Station and the construction and installation of any other DuPage County Unit System Connection Facilities required as a result of the relocation or replacement of the Hobson Valley (Greene Road) Metering Station; and the construction and installation by the Commission, at DuPage County's sole cost and expense, of any additional Commission Connection Facilities required as a result of the relocation or replacement of the Hobson Valley (Greene Road) Metering Station. The schedule for such construction and installation shall not unreasonably disrupt or interfere with the Commission's operations, and the Commission will make a diligent effort to have its facilities completed to the new Point of Delivery for the Hobson Valley (Greene Road) Service Area by the time established in the schedule for the delivery of Lake Water, but the Commission does not, and shall not, in any way guaranty delivery by such date.

D. Notwithstanding any requirement of the DuPage County Contract to the contrary, the Commission shall have no obligation to deliver Lake Water to the DuPage County Unit System for the Hobson Valley (Greene Road) Service Area following such termination or determination or interpretation of invalidity, insufficiency, or nonexistence unless and until (i) the Hobson Valley (Greene Road) Metering Station shall have been relocated or replaced by the Commission; (ii) any additional DuPage County Unit System Connection Facilities for the Hobson Valley (Greene Road) Service Area required as a result of the relocation or replacement of the Hobson Valley (Greene Road) Metering Station shall have been completed by DuPage County; and (iii) any additional Commission Connection Facilities required as a result of the relocation or replacement of the Hobson Valley (Greene Road) Metering Station shall have been completed by the Commission. Notwithstanding the fact that the Commission shall have no obligation to deliver Lake Water to the DuPage County Unit System for the Hobson Valley (Greene Road) Service

Area during the period between such termination or determination or interpretation of invalidity, insufficiency, or nonexistence and the date by which all of the foregoing conditions shall have been satisfied, DuPage County hereby acknowledges and agrees that DuPage County shall continue to pay to the Commission all amounts due under the DuPage County Contract during such period as if the DuPage County Unit System were receiving its Full Water Requirements from the Commission; provided, however, that, with respect to DuPage County's obligation to pay its share of Underconsumption Costs pursuant to Subsection 7F of the Contract, such share of Underconsumption Costs shall be paid on the basis of the actual amount of Lake Water delivered to the DuPage County Unit System for the Hobson Valley (Greene Road) Service Area from the Commission during such period.

SECTION FIVE: LEGAL RELATIONSHIPS AND REQUIREMENTS

A. This Agreement, and the Joint Facility provided by this Agreement, shall be deemed to supplement the DuPage County Contract to provide for (i) the construction and operation of the Joint Facility and (ii) the Commission's obligation to deliver and DuPage County's obligation to receive water for the Hobson Valley (Greene Road) Service Area; the location of and property rights for the Hobson Valley (Greene Road) Metering Station; the prices and terms of payment; DuPage County's release and indemnification of the Commission; and the schedule for completion of various facilities, in the event the Easement Agreement is ever terminated or DuPage County's or the Commission's legal interest in or legal authority concerning the use of the Hobson Valley (Greene Road) Metering Station Site for the Hobson Valley (Greene Road) Metering Station in the manner provided in the Easement Agreement or the use of the Easement Premises for the Hobson Valley (Greene Road) Pressure Adjusting Station or the Joint Facility is, for any reason,

terminated or deemed or interpreted to be invalid, insufficient, or nonexistent and the Hobson Valley (Greene Road) Metering Station, the Hobson Valley (Greene Road) Pressure Adjusting Station, or the Joint Facility is removed, with or without relocation or replacement. 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 of the DuPage County Contract, and, if there is any conflict or inconsistency between the terms of this Agreement and the terms of the DuPage County Contract, then the terms of the DuPage County Contract shall control. DuPage County shall at all times comply with all terms and conditions of the DuPage County Contract as supplemented by this Agreement, including without limitation the making of all payments due thereunder and hereunder promptly to the Commission. Under no circumstances shall any dispute of any nature under this Agreement, or DuPage County's inability to receive water through the Hobson Valley (Greene Road) Metering Station or the Joint Facility provided by this Agreement, excuse, delay, or in any other way affect DuPage County's performances under the DuPage County Contract, including without limitation the making of all such payments.

For purposes of the DuPage County Contract, the "Commission Connection Facilities" shall include the Hobson Valley (Greene Road) Metering Station provided for under this Agreement and any additional facilities to be constructed and installed by the Commission pursuant to this Section Four of this Agreement.

For purposes of the DuPage County Contract, the "DuPage County Unit System Connection Facilities" shall include the Hobson Valley (Greene Road) Pressure Adjusting Station provided for under this Agreement and any additional facilities to be constructed and installed by DuPage County pursuant to Section Four of this Agreement.

For purposes of the DuPage County Contract, the "Connection Facilities Cost" shall include the full actual cost incurred by the Commission in connection with the negotiation, preparation, consideration, and review of this Agreement, including without limitation all legal, engineering, consulting, and administrative fees, costs, and expenses associated therewith.

Notwithstanding anything to the contrary contained in the DuPage County Contract, the Commission and DuPage County expressly acknowledge and agree that DuPage County shall not be entitled to payment or reimbursement from the Commission for the design, bidding, contracting, managing, and actual construction, installation, removal, relocation, replacement, extension, or improvement of the Joint Facility.

B. DuPage County hereby releases the Commission from, agrees that the Commission shall not be liable for, and agrees to indemnify and hold the Commission harmless from: (a) any damages occasioned by or in any way related to or resulting from any failure to supply Lake Water or any limitation on, or delay in, or interruption of, the Lake Water supply; (b) any damage to the DuPage County Unit System caused by the design of the Joint Facility or the operation or maintenance of the Hobson Valley (Greene Road) Pressure Adjusting Station or the common areas of the Joint Facility or the removal, relocation, or replacement of the Hobson Valley (Greene Road) Metering Station or the construction, installation, removal, relocation, or replacement of any other Connection Facility required as a result of the removal, relocation, or replacement of the Hobson Valley (Greene Road) Metering Station; and (c) any claims, litigation, and liabilities for any loss or damage to property or any injury to, or death of, any person that may be occasioned by, connected with, or in any way attributable to, the construction and installation of the Joint Facility or the maintenance of the DuPage County Unit System, the Hobson Valley (Greene

Road) Pressure Adjusting Station, or the common areas of the Joint Facility, or the removal, relocation, or replacement of the Hobson Valley (Greene Road) Metering Station or the construction, installation, removal, relocation, or replacement of any other Connection Facility required as a result of the removal, relocation, or replacement of the Hobson Valley (Greene Road) Metering Station, or to any exercise by DuPage County of any right or duty herein granted or any failure by DuPage County to exercise any such right or duty or to comply with any of the terms and conditions of this Agreement. DuPage County shall, and does hereby agree to, pay all expenses, including legal fees and administrative expenses, incurred by the Commission in defending itself with regard to any and all of the matters mentioned in this Section 5B.

C. The Commission and DuPage County agree to meet and cooperate in good faith throughout the term of this Agreement to implement the letter and spirit of the provisions set forth herein. The Commission and DuPage County agree and acknowledge that further details regarding the construction and operation of the Joint Facility may be subject to a future agreement.

D. Either the Commission or DuPage County may terminate this Agreement upon 30 days advance written notice to the other in the following situations:

1. In the event the property for the Joint Facility Site is not dedicated to DuPage County, or an alternative location is not obtained, as provided in Subsection 3B of this Agreement, on or before October 1, 2009.
2. In the event DuPage County shall not have approved the final design of the Hobson Valley (Greene Road) Pressure Adjusting Station and the common areas of the Joint Facility on or before October 1, 2009.
3. In the event the Commission and DuPage County are unable to agree on the award by the Commission of a contract(s) for the construction of the Joint Facility on or before October 1, 2009.
4. In the event DuPage County shall have failed or refused to increase the Cash Deposit as and when required by Subsection 3G of this

Agreement.

5. In the event DuPage County shall have failed or refused to meet fully any of its obligations under this Agreement or the DuPage County Contract.

Upon termination, this Agreement shall be void and of no effect; provided, however, that DuPage County shall remain responsible for all fees, costs, and expenses incurred or accrued by the Commission prior to termination of this Agreement. The obligation of DuPage County to reimburse the Commission as required by this Agreement is unconditional and irrevocable, payable without set off or counterclaim, and irrespective of whether Lake Water is ever furnished, made available, or delivered to DuPage County through the Joint Facility, or whether the Joint Facility is completed, operable, or operating, and notwithstanding suspension, interruption, interference, reduction, or curtailment of the supply of Lake Water. In the event that, following service of such notice but before actual termination, the basis for such notice is corrected, the notice shall be considered void and of no effect, and this Agreement shall continue in full force and effect.

E. This Agreement may not be assigned by any party, in whole or in part, without the prior written consent of the other party, which consent, with respect to DuPage County, shall not be unreasonably withheld.

F. In case any one or more of the provisions contained in this Agreement should be held by a court of competent jurisdiction to be invalid, illegal, or unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired thereby; provided, however, that if the remaining parts hereof may not reasonably be construed together without the part or parts so held invalid or unenforceable, the Commission and DuPage County agree to negotiate such reasonable amendments hereto as shall be required to most nearly conform this

Agreement, as thereby amended, to the original intention of the Commission and DuPage County.

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

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

DuPage Water Commission
600 East Butterfield Road
Elmhurst, Illinois 60126-4642
Attention: Robert L. Martin
General Manager

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

County of DuPage
Public Works Department
421 North County Farm Road
Wheaton, Illinois 60187
Attention: Superintendent

And

State's Attorney's Office
503 North County Farm Road
Wheaton, Illinois 60187
Attention: Anthony Hayman

H. This Agreement shall be construed exclusively under the applicable laws, but not the conflicts of laws rules, of the State of Illinois.

I. 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 DuPage County to make payments to the Commission to meet the Commission's obligations under the Chicago Contract, the Charter Customer Contract, and the Bond Ordinances.

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.

COUNTY OF DuPAGE

Date: 5/26/09

By: 

Robert J. Schillerstrom, Chairman

(SEAL)

ATTEST: By: 

Gary A. King

DuPAGE WATER COMMISSION

Date: _____

By: _____

Chairman

(SEAL)

ATTEST: By: _____

Clerk

DuPAGE COUNTY PUBLIC WORKS

By: 

Nicholas Kottmeyer P.E., Superintendent of Public Works

EXHIBIT A

Property map and legal

J

Hobson Valley Lake Michigan Metering Station Property Easement

PALOMINO DR

134.21

68

29.79

68

29.91

75TH ST

Legend

— Easement
--- guide line



0 12.5 25 50 Feet

THAT PART OF THE PUBLIC RIGHT OF WAY OF 75TH STREET IN THE WEST HALF OF THE NORTHWEST QUARTER OF SECTION 27, TOWNSHIP 38 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS; COMMENCING AT THE SOUTHWEST CORNER OF LOT 1 IN FAIRLANE FARMS SUBDIVISION, RECORDED AS DOCUMENT NUMBER 63-013967; THENCE ON AN ASSUMED BEARING OF NORTH 88 DEGREES 04 MINUTES 20 SECONDS EAST, 134.21 FEET, ALONG THE SOUTH LINE OF SAID LOT 1 SAID LINE BEING ALSO THE NORTH RIGHT OF WAY LINE OF SAID 75TH STREET TO AN IRON PIPE, FOR A POINT OF BEGINNING; THENCE CONTINUING NORTH 88 DEGREES 04 MINUTES 20 SECONDS EAST, A DISTANCE OF 68.00 FEET, ALONG SAID SOUTH AND NORTH LINE, TO AN IRON PIPE; THENCE SOUTH 01 DEGREE 55 MINUTES 40 SECONDS EAST A DISTANCE OF 29.91 FEET TO A POINT; THENCE SOUTH 88 DEGREES 10 MINUTES 27 SECONDS WEST, A DISTANCE OF 68.00 FEET, TO A POINT; THENCE NORTH 01 DEGREE 55 MINUTES 40 SECONDS WEST A DISTANCE OF 29.79 FEET TO SAID POINT OF BEGINNING, IN DUPAGE COUNTY, ILLINOIS

EXHIBIT B

Easement Agreement

DUPAGE WATER COMMISSION
METERING STATION
EASEMENT AGREEMENT
(DuPage County Hobson Valley (Greene Road) MS-9B)

PERMANENT REAL ESTATE TAX INDEX NO. Within Road Right of Way of 75th Street

Prepared by and Mail to:

Maureen A. Crowley
Staff Attorney
DuPage Water Commission
600 East Butterfield Road
Elmhurst, Illinois 60126

METERING STATION
EASEMENT AGREEMENT
(DuPage County Hobson Valley (Greene Road) MS-9B)

THIS EASEMENT AGREEMENT, made and entered into as of this ____ day of _____, 2009, 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 DUPAGE COUNTY "the Customer", a unit of local government created and existing under the laws of the State of Illinois and a customer of the Commission the "the Customer",

W I T N E S S E T H:

WHEREAS, the Commission and the Customer, a unit of local government created and existing under the laws of the State of Illinois and a customer of the Commission have entered into a certain Water Purchase and Sale Contract, dated as of July 13, 2006 (the "DuPage County Contract"), as supplemented by a certain Intergovernmental Agreement Concerning the Construction and Operation of a Joint Facility for the Hobson Valley (Greene Road) Service Area, dated as of _____, 2009 (the "Joint Facility Agreement"); and

WHEREAS, the Joint Facility Agreement provides that the Commission is to furnish, install, own, operate, maintain, and repair certain equipment and devices, together with certain structures and portions of its water distribution main, 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 at the connection point for the Hobson Valley (Greene Road) Service Area provided for under the Joint Facility Agreement (collectively referred to as the "Metering Station"); and

WHEREAS, the Joint Facility Agreement provides that the Metering Station is to be located at a site selected and provided by the Customer, subject to review and approval by the Commission; and

WHEREAS, the Customer has selected the site legally described in Exhibit 1 attached hereto and by this reference incorporated herein and made a part hereof (the "Metering Station Easement Premises") for the location of the Metering Station as generally depicted in Exhibit 2 attached hereto and by this reference incorporated herein and made a part hereof; and

WHEREAS, the Commission has reviewed the Metering Station Easement Premises and approved the same for the location of the Metering Station; and

WHEREAS, the Commission has submitted to the Customer for review the drawings and specifications for the Metering Station; and

WHEREAS, the Easement Premises are located in unimproved public right-of-way and the Customer is the owner of the Easement Premises and will grant an easement for the Metering Station Easement Premise; and

WHEREAS, the Commission desires to enter into this Easement Agreement the Customer in order to provide the Commission with a sufficient property interest in the Metering Station Easement Premises to fulfill the provisions and purpose of the DuPage County Contract, as supplemented by the Joint Facility Agreement; and

WHEREAS, the Commission has duly adopted its Ordinance No. 0-3-09, being "An Ordinance Requesting the Intergovernmental Transfer of Easement Rights for the DuPage County Hobson Valley (Greene Road) Metering Station MS-9B Site and Authorizing the Execution of the DuPage County Hobson Valley (Greene Road) Metering Station

Easement Agreement," pursuant to the Local Government Property Transfer Act, 50 ILCS 605/0.01 et seq.; and

WHEREAS, the Customer has duly adopted its Resolution No. PW-0008-09, being "A Resolution Approving the Intergovernmental Transfer of Easement Rights to the DuPage Water Commission," pursuant to the Local Government Property Transfer Act, 50 ILCS 605/0.01 et seq.;

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 the Intergovernmental Cooperation Act, 5 ILCS 220/1 et seq., 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 Metering Station at, in, under, and upon the Metering Station Easement Premises, 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.
3. The Metering Station shall be not located, constructed, or maintained in any manner not in substantial conformity with Exhibit 2 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 Subject Property.

5. After construction of the Metering Station, the Metering Station Easement Premises shall be restored in accordance with the drawings and specifications for the Metering Station.

6. The Customer hereby reserves the right to use the Metering Station Easement Premises, 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 Metering Station Easement Premises without the express prior written consent of the Commission, nor shall the Customer permanently or temporarily improve, damage, or obstruct the Metering Station 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 or damages to persons or property which may arise directly from the negligence of the Customer, or its agents or employees, in performing any work on the Metering Station Easement Premises in conjunction with its rights pursuant to Paragraph 7 hereof, and the Commission agrees to indemnify and defend the Customer with respect to any and all claims of damages to persons or property which may arise directly from the negligence of the Commission, or its agents or employees, in performing any work on the Metering Station Easement Premises in conjunction with its rights pursuant to Paragraphs 2, 5, 6 and 7 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. Customer represents and warrants that it shall take all necessary action so that the easement contemplated by this Easement Agreement shall be released from all liens, including but not limited to the lien of all mortgages, mechanics' lien claims, security agreements, and assignments of rents and leases, and shall execute all such documents as may be reasonably necessary to perfect the Commission's right, title and interest therein.

9. This Easement Agreement shall constitute and stand in the place of all Customer permits required by the Commission or its contractor to construct, furnish, install, own, operate, maintain, test, inspect, repair, remove, or replace the Metering Station at, in, under, and upon the Metering Station Easement Premises, and 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 Metering Station.

10. Upon the expiration of the term of this Easement Agreement as provided in Paragraph 2 hereof without renewal, or in the event that DuPage County 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 easement rights hereby granted. The Commission shall, within said 90 day period, and at the Customer's expense,

remove the Metering Station from the Metering Station Easement Premises. If the Commission fails to remove the Metering Station, as aforesaid, the Customer may take title to the Metering Station.

In the event the Easement Agreement is ever terminated or the Customer's or the Commission's legal interest in or legal authority concerning the use of the Easement Premises for the Metering Station in the manner provided in the Easement Agreement is, for any reason, terminated or deemed or interpreted to be invalid, insufficient or nonexistent, the Commission shall remove the Metering Station from the Easement Premises at the Customer's sole cost and expense.

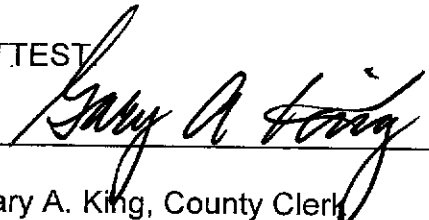
11. All rights, title, and privileges herein granted, including all benefits and burdens, shall run with the land and shall be binding upon and inure to the benefit of the parties hereto and their respective grantees, successors, assigns, and legal representatives.

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

DUPAGE WATER COMMISSION

ATTEST:

ATTEST



Gary A. King, County Clerk

By:



COUNTY OF DUPAGE

By:



Robert J. Schillerstrom, Chairman

EXHIBIT 1

LEGAL DESCRIPTION OF THE METERING STATION EASEMENT PREMISES

Hobson Valley Lake Michigan Metering Station Property Easement

PALOMINO DR

134.21

68

29.79

68

29.91

75TH ST

Legend

— Easement
--- guide line



0 12.5 25 50 Feet

THAT PART OF THE PUBLIC RIGHT OF WAY OF 75TH STREET IN THE WEST HALF OF THE NORTHWEST QUARTER OF SECTION 27, TOWNSHIP 38 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS; COMMENCING AT THE SOUTHWEST CORNER OF LOT 1 IN FAIRLANE FARMS SUBDIVISION, RECORDED AS DOCUMENT NUMBER 63-013967; THENCE ON AN ASSUMED BEARING OF NORTH 88 DEGREES 04 MINUTES 20 SECONDS EAST, 134.21 FEET, ALONG THE SOUTH LINE OF SAID LOT 1 SAID LINE BEING ALSO THE NORTH RIGHT OF WAY LINE OF SAID 75TH STREET TO AN IRON PIPE, FOR A POINT OF BEGINNING; THENCE CONTINUING NORTH 88 DEGREES 04 MINUTES 20 SECONDS EAST, A DISTANCE OF 68.00 FEET, ALONG SAID SOUTH AND NORTH LINE, TO AN IRON PIPE; THENCE SOUTH 01 DEGREE 55 MINUTES 40 SECONDS EAST A DISTANCE OF 29.91 FEET TO A POINT; THENCE SOUTH 88 DEGREES 10 MINUTES 27 SECONDS WEST, A DISTANCE OF 68.00 FEET, TO A POINT; THENCE NORTH 01 DEGREE 55 MINUTES 40 SECONDS WEST A DISTANCE OF 29.79 FEET TO SAID POINT OF BEGINNING, IN DUPAGE COUNTY, ILLINOIS

EXHIBIT 2

PLANS FOR THE LOCATION OF THE METERING STATION



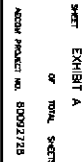


EXHIBIT 3

LEGAL DESCRIPTION OF THE SUBJECT PROPERTY

Hobson Valley Lake Michigan Metering Station Property Easement

PALOMINO DR

134.21

68

29.79

68

29.91

75TH ST

Legend

— Easement
--- guide line



0 12.5 25 50 Feet

THAT PART OF THE PUBLIC RIGHT OF WAY OF 75TH STREET IN THE WEST HALF OF THE NORTHWEST QUARTER OF SECTION 27, TOWNSHIP 38 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS; COMMENCING AT THE SOUTHWEST CORNER OF LOT 1 IN FAIRLANE FARMS SUBDIVISION, RECORDED AS DOCUMENT NUMBER 63-013967; THENCE ON AN ASSUMED BEARING OF NORTH 88 DEGREES 04 MINUTES 20 SECONDS EAST, 134.21 FEET, ALONG THE SOUTH LINE OF SAID LOT 1 SAID LINE BEING ALSO THE NORTH RIGHT OF WAY LINE OF SAID 75TH STREET TO AN IRON PIPE, FOR A POINT OF BEGINNING; THENCE CONTINUING NORTH 88 DEGREES 04 MINUTES 20 SECONDS EAST, A DISTANCE OF 68.00 FEET, ALONG SAID SOUTH AND NORTH LINE, TO AN IRON PIPE; THENCE SOUTH 01 DEGREE 55 MINUTES 40 SECONDS EAST A DISTANCE OF 29.91 FEET TO A POINT; THENCE SOUTH 88 DEGREES 10 MINUTES 27 SECONDS WEST, A DISTANCE OF 68.00 FEET, TO A POINT; THENCE NORTH 01 DEGREE 55 MINUTES 40 SECONDS WEST A DISTANCE OF 29.79 FEET TO SAID POINT OF BEGINNING, IN DUPAGE COUNTY, ILLINOIS

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

I, _____, a Notary Public in and for said County, in the State aforesaid, do hereby certify that Robert L. Martin, 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 _____, 200_.

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 _____
[of _____, and _____ of said
_____, personally known to me to be the same person(s) whose
name(s) is (are) subscribed to the foregoing instrument [as such
_____ and _____, respectively,]
appeared before me this day in person and acknowledged that (he) (she) (they) signed and
delivered said instrument as (his) (her) (their) free and voluntary act [, and as the free and
voluntary act of said _____,] for the uses and purposes therein
set forth.

Given under my hand and official seal this _____ day of _____,
200__.

Notary Public

My Commission Expires:

EXHIBIT C

WATER DELIVERY DATA DuPAGE WATER COMMISSION

WATER DELIVERY DATA

DU PAGE WATER COMMISSION

Date: March 12, 2009

CUSTOMER NAME: DuPage County Hobson Valley Service Area (Greene Road)

DELIVERY POINT (DWC NODE No.) TBD

UPSTREAM DWC METER STATION NO. & LOCATION: MS-9b

TYPE OF CUSTOMER'S FACILITY REQUIRED: Type C Rate Control Station

LOCATION AT: 75th Street near Palomino Drive in Unincorporated Lisle Township

DWC DESIGN MINIMUM HYDRAULIC GRADE* (USGS DATUM): 876.6

CUSTOMER'S SYSTEM OVERFLOW ELEV. AND/OR REQUIRED HEAD**: 876.3

CUSTOMER'S STORAGE FACILITY: 250,000 Gallons

DWC BENCHMARK LOCATION & ELEVATION: TBD

HYDRAULIC DATA

	Flow Rate @ Customer's Facility MGD	DWC Hydraulic Grade 10 ft. Downstream of DWC Meter Station USGS Datum
2009 Ave. Day	.051	
2009 Max. Day	.087	
2020 Ave. Day	.126	
2020 Max. Day	.214	876.6
2020 Peak***	2.160***	

* DWC design minimum hydraulic grade will fluctuate approx. \pm 10 feet depending upon Commission's elevated storage water elevation.

** It is customer's responsibility to verify the system overflow elevation or required head.

*** 3 X 2020 average day flow or 1500 GPM minimum.

DU PAGE WATER COMMISSION
TREASURE'S REPORT
STATEMENT OF REVENUES & EXPENDITURES
June 30, 2009

	CURRENT MONTH			YEAR TO DATE		
	FY 2010	FY 2009	INC - (DEC)	FY 2010	FY 2009	INC - (DEC)
REVENUE						
WATER SALES	\$ 4,794,554	3,698,643	1,095,911	9,209,142	6,931,296	2,277,846
SALES TAX	2,339,250	2,803,584	(464,334)	4,334,822	5,331,599	(996,777)
INVESTMENT INCOME	135,129	173,176	(38,047)	285,413	372,334	(86,921)
OTHER INCOME	-	-	-	-	-	-
TOTAL REVENUE	7,268,933	6,675,403	593,530	13,829,377	12,635,229	1,194,148
EXPENDITURES						
PERSONAL SERVICES	318,246	396,691	(78,445)	716,399	694,651	21,748
PROFESSIONAL SERVICES	67,031	64,265	2,766	95,891	79,271	16,620
CONTRACTUAL SERVICES	12,728	6,080	6,648	22,966	15,490	7,476
INSURANCE	-	8,247	(8,247)	8,786	26,339	(17,553)
WATER SUPPLY COSTS	4,853,688	4,486,894	366,794	8,879,936	8,187,603	692,333
BOND PRINCIPAL & INTEREST EXPENSE	-	-	-	11,934,718	11,707,843	226,875
LAND AND RIGHT OF WAY	-	-	-	-	-	-
CAPITAL EQUIPMENT PURCHASES	2,862,878	185,769	2,677,109	3,826,188	1,075,784	2,750,404
TOTAL EXPENDITURES	8,114,571	5,147,946	2,966,625	25,484,884	21,786,981	3,697,903
REBATES	-	-	-	-	-	-
TRANSFER TO OTHER GOVERNMENTS	-	-	-	-	-	-
NET INCREASE / (DECREASE) IN FUNDS	(845,638)	1,527,457	(2,373,095)	(11,655,507)	(9,151,752)	(2,503,755)

FUNDS CONSIST OF:

	June 30, 2009	June 30, 2008	INC - (DEC)
PETTY CASH	800	800	-
CASH AT BANK ONE	7,526	7,526	-
CASH AT MB FINANCIAL LOCK BOX	59,736	795,446	(735,710)
CASH AT HARRIS BANK	65,712	75,172	(9,460)
TOTAL CASH	133,774	878,944	(745,170)

	June 30, 2009	June 30, 2008				% CHANGE
ILLINOIS FUNDS MONEY MARKET	24.80%	21.99%	16,340,174	15,850,620	489,554	3.1%
ILLINOIS FUNDS PRIME FUND	27.66%	25.28%	18,221,279	18,221,279	-	0.0%
GOVERNMENT MONEY MARKET FUNDS	0.01%	0.01%	5,225	5,225	-	0.0%
U. S. TREASURY INVESTMENTS	16.41%	24.28%	10,807,194	17,495,986	(6,688,792)	-38.2%
U. S. AGENCY INVESTMENTS	0.00%	0.00%	-	-	-	0.0%
CERTIFICATES OF DEPOSIT	31.12%	28.44%	20,500,000	20,500,000	-	0.0%
TOTAL INVESTMENTS	100.00%	100.00%	65,873,872	72,073,110	(6,199,238)	
TOTAL FUNDS			66,007,646	72,952,054	(6,944,408)	
UNRESTRICTED FUNDS			18,915,476	24,334,560	(5,419,084)	
RESTRICTED FUNDS			47,092,170	48,617,494	(1,525,324)	
TOTAL FUNDS			66,007,646	72,952,054	(6,944,408)	



DuPage Water Commission MEMORANDUM

TO: Robert Martin, General Manager

FROM: R. Max Richter, Financial Administrator

DATE: July 7, 2009

SUBJECT: Financial Report – June

- Water sales for the month are under budget by \$1.7 million (30%) and for the year under budget by \$2.0 million (21.0%). Sales are \$0.7 million (20.9%) less than the same month for last fiscal year. Year-to-date sales are \$1.1 million less than last fiscal year.
- Water purchases from Chicago for the month are under budget by \$2.4 million (30%) and for the year under budget by \$3.0 million (25%). Purchases are \$0.4 million (9.3%) less than the same month for last fiscal year and year-to-date are \$0.4 million (5.0%) less than last fiscal year.
- June sales tax collections (March sales) were \$464,334 (16.6%) less than the same period last fiscal year.
- Commission's investment portfolio had a market value of \$66.0 million on June 30, 2009. The original purchase price of the portfolio was \$66.1 million. The portfolio was earning approximately 0.504% based on market yield and 0.555% based on original purchase price.

Following is a summary of the Historical Check Report and Accounts Payable for the July 9, 2009 Commission meeting:

June A/P History Check Report (1)		\$7,724,892.80
Holland & Knight		5,842.00
A/P Regular Open Item Register		5,842.00
	Total	<u>\$7,730,734.80</u>
1) Previously authorized.		

cc: Chairman and Commissioners

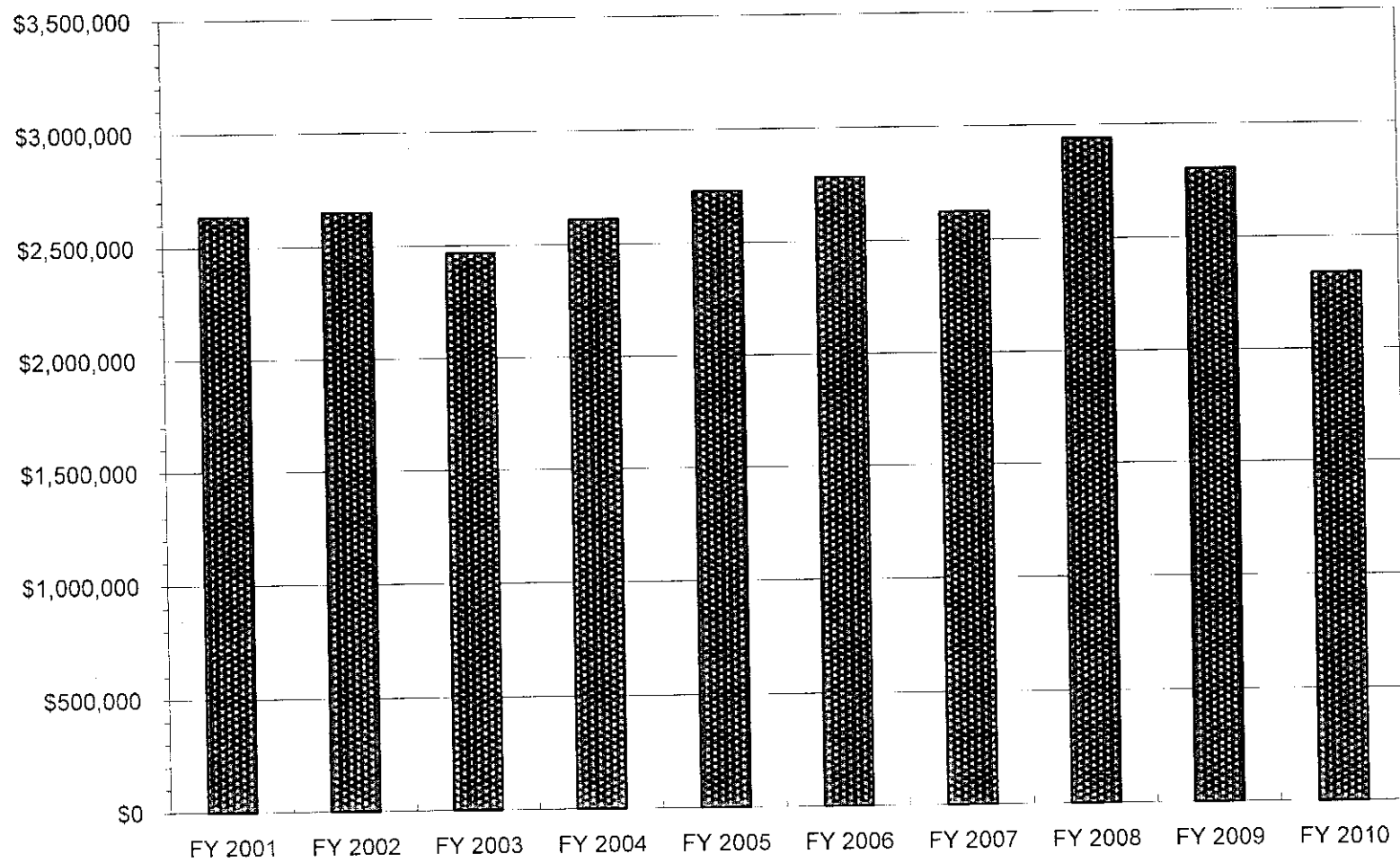
DU PAGE WATER COMMISSION
INVESTMENTS
(Unaudited)
June 30, 2009

FUND SOURCE	COUPON RATE	PURCHASE DATE	MATURITY DATE	PURCHASED TO YIELD	MARKET YIELD	PAR VALUE	MARKET	AMORTIZED DISCOUNT (PREMIUM)	PURCHASE PRICE	ACCRUED INTEREST 06/30/09	BID PRICE 06/30/09
Water Fund Depreciation Account (01-1216)											
Illinois Funds-Money Market	0.053%	06/30/09	07/01/09	0.053%	0.053%	\$ 5,924,988.91	\$ 5,924,988.91	\$ -	\$ 5,924,988.91	\$ -	100.000
				0.053%	0.053%	\$ 5,924,988.91	\$ 5,924,988.91	\$ -	\$ 5,924,988.91	\$ -	
Water Fund General Account (01-1217)											
Illinois Funds-Money Market	0.053%	06/30/09	07/01/09	0.053%	0.053%	\$ -	\$ -	\$ -	\$ -	\$ -	100.000
				N/A	N/A	\$ -	\$ -	\$ -	\$ -	\$ -	
Water Fund General Account (01-1218)											
Illinois Funds-Money Market	0.053%	06/30/09	07/01/09	0.053%	0.053%	\$ -	\$ -	\$ -	\$ -	\$ -	100.000
				N/A	N/A	\$ -	\$ -	\$ -	\$ -	\$ -	
Sales Tax Funds (01-1230)											
Illinois Funds-Money Market	0.053%	06/30/09	07/01/09	0.053%	0.053%	\$ 313,225.20	\$ 313,225.20	\$ -	\$ 313,225.20	\$ -	100.000
Cert. of Deposit (Winfield Community Bank)	3.000%	06/17/08	06/15/09	3.000%	3.000%	2,500,000.00	2,500,000.00	-	2,500,000.00	77,671.23	100.000
Cert. of Deposit (West Suburban Bank)	3.100%	07/17/08	07/17/09	3.100%	3.100%	5,935,100.00	5,935,100.00	-	5,935,100.00	175,418.79	100.000
Cert. of Deposit (West Suburban Bank)	3.195%	10/17/08	10/17/09	3.195%	3.195%	64,900.00	64,900.00	-	64,900.00	1,454.33	100.000
				2.964%	2.964%	\$ 8,813,225.20	\$ 8,813,225.20	\$ -	\$ 8,813,225.20	\$ 254,544.35	
2001 G. O. Bonds Debt Service (01-1243)											
FAMGOFIC Money Market	0.153%	06/30/09	07/01/09	0.153%	0.153%	\$ 1,392,099.71	\$ 1,392,099.71	\$ -	\$ 1,392,099.71	\$ 237.91	100.000
U. S. Treas. Notes (U.S. BANK)	4.000%	02/24/09	08/31/09	0.524%	0.205%	674,000.00	683,166.40	(2,760.24)	685,926.64	2,246.67	101.360
U. S. Treas. Notes (U.S. BANK)	2.000%	02/24/09	02/28/10	0.726%	0.452%	11,432,000.00	11,554,322.40	(24,150.10)	11,578,472.50	19,053.33	101.070
				0.657%	0.409%	\$ 13,498,099.71	\$ 13,629,588.51	\$ (26,910.34)	\$ 13,656,498.85	\$ 21,537.91	
TOTAL ALL FUNDS				0.555%	0.504%	\$ 65,873,872.79	\$ 66,007,936.59	\$ (42,401.75)	\$ 66,050,338.34	\$ 288,619.24	
June 30, 2009				90 DAY US TREASURY YIELD		0.162%					

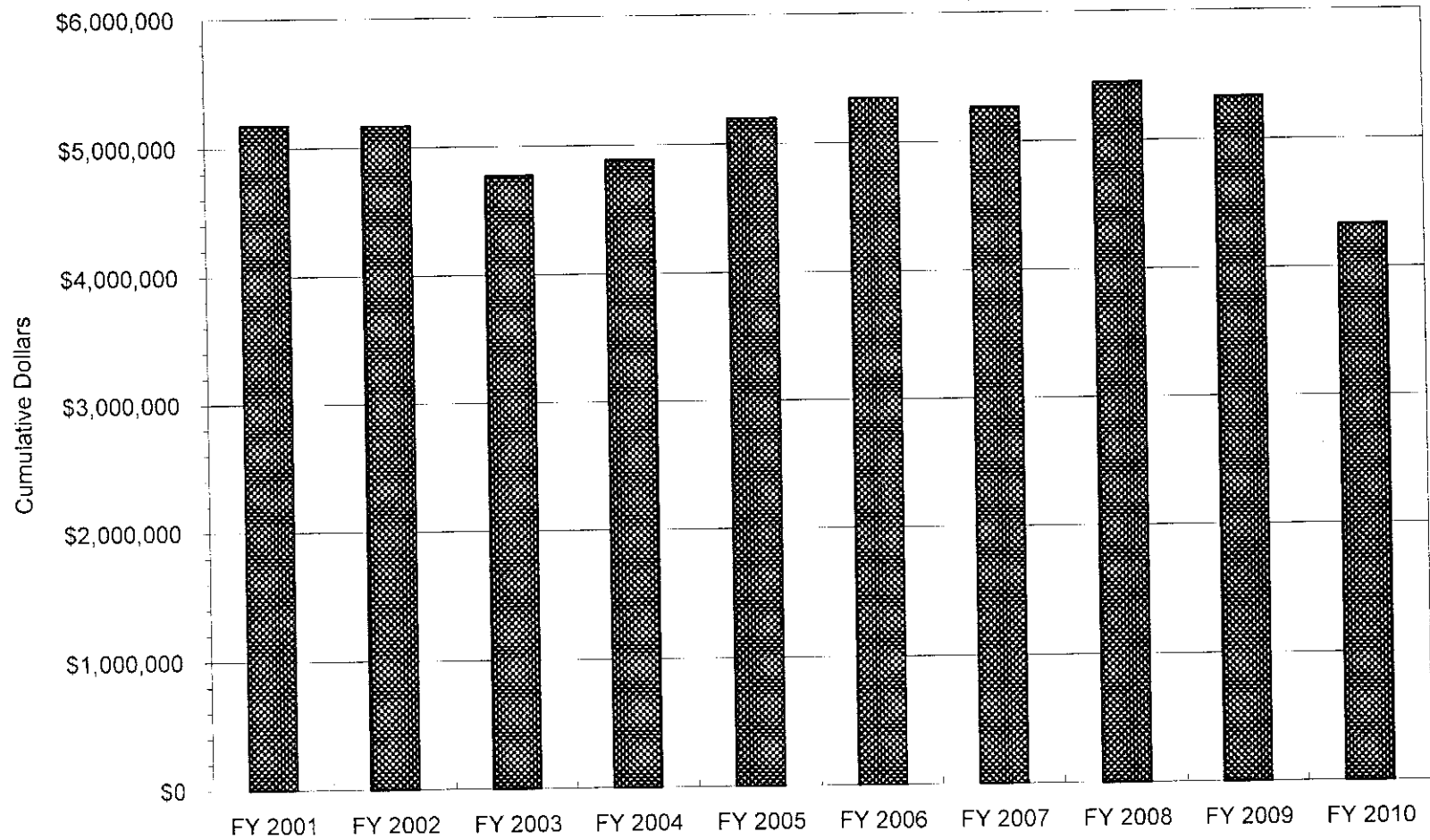
DU PAGE WATER COMMISSION
INVESTMENTS
(Unaudited)
June 30, 2009

FUND SOURCE	COUPON RATE	PURCHASE DATE	MATURITY DATE	PURCHASED TO YIELD	MARKET YIELD	PAR VALUE	MARKET	AMORTIZED DISCOUNT (PREMIUM)	PURCHASE PRICE	ACCRUED INTEREST 06/30/09	BID PRICE 06/30/09
Water Fund Oper. & Maint. Acct. (01-1211)											
Illinois Funds-Money Market	0.053%	06/30/09	07/01/09	0.053%	0.053%	\$ 10,101,961.58	\$ 10,101,961.58	\$ -	\$ 10,101,961.58	\$ -	100.000
				0.053%	0.053%	\$ 10,101,961.58	\$ 10,101,961.58	\$ -	\$ 10,101,961.58	\$ -	
Revenue Bond Interest Account (01-1212)											
One Group Government Money Market	0.000%	06/30/09	07/01/09	0.000%	0.000%	2,562,421.95	\$ 2,562,421.95	\$ -	\$ 2,562,421.95	\$ -	100.000
U. S. Treas. Notes (JP Morgan)	3.625%	05/29/09	10/31/09	0.000%	0.000%	347,000.00	\$ 347,000.00	\$ (4,933.91)	\$ 351,933.91	\$ 5,241.15	100.000
				0.000%	0.000%	\$ 2,909,421.95	\$ 2,909,421.95	\$ (4,933.91)	\$ 2,914,355.86	\$ 5,241.15	100.000
Revenue Bond Principal (01-1213)											
One Group Government Money Market	0.000%	06/30/09	07/01/09	0.000%	0.000%	\$ 10,259,627.89	\$ 10,259,627.89	\$ -	\$ 10,259,627.89	\$ -	100.000
U. S. Treas. Notes (JP Morgan)	2.125%	05/29/09	04/30/10	0.000%	0.000%	824,000.00	826,575.00	(10,557.50)	837,132.50	7,295.83	100.313
U. S. Treas. Notes (JP Morgan)				0.000%	0.000%	\$ 11,083,627.89	\$ 11,086,202.89	\$ (10,557.50)	\$ 11,096,760.39	\$ 7,295.83	100.313
Revenue Bond Debt Svc. Reserve (01-1214)											
				N/A	N/A	\$ -	\$ -	\$ -	\$ -	\$ -	
Water Fund Oper. & Maint. Res. (01-1215)											
Illinois Funds-Money Market	0.053%	06/30/09	07/01/09	0.053%	0.053%	\$ 13,542,547.55	\$ 13,542,547.55	\$ -	\$ 13,542,547.55	\$ -	100.000
				0.053%	0.053%	\$ 13,542,547.55	\$ 13,542,547.55	\$ -	\$ 13,542,547.55	\$ -	

**DuPage Water Commission
Sales Tax Collected - Current Month**



**DuPage Water Commission
Sales Tax Collections - Year to Date**



DU PAGE WATER COMMISSION
REVENUE & EXPENSE REPORT (UNAUDITED)
AS OF: JUNE 30TH, 2009

01 -WATER FUND
FINANCIAL SUMMARY

% OF YEAR COMPLETED: 16.67

	CURRENT BUDGET	CURRENT PERIOD	PRIOR YEAR PO ADJUST.	Y-T-D ACTUAL	Y-T-D ENCUMBRANCE	BUDGET BALANCE	% OF BUDGET
<u>REVENUE SUMMARY</u>							
WATER SERVICE	56,008,336	4,374,879.46	0.00	8,645,319.12	0.00	47,363,016.88	15.44
TAXES	30,069,085	2,339,249.85	0.00	4,334,821.83	0.00	25,734,263.17	14.42
OTHER INCOME	1,555,496	2,985.49	0.00	5,517.17	0.00	1,549,978.83	0.35
TOTAL REVENUES	87,632,917	6,717,114.80	0.00	12,985,658.12	0.00	74,647,258.88	14.82
<u>EXPENDITURE SUMMARY</u>							
<u>ADMINISTRATION</u>							
PERSONNEL SERVICES	4,570,513	306,870.80	0.00	684,165.90	0.00	3,886,347.10	14.97
CONTRACT SERVICES	1,097,785	60,905.08	0.00	179,038.13	0.00	918,746.87	16.31
INSURANCE	767,182	56,760.90	0.00	106,980.80	0.00	660,201.20	13.94
OPERATIONAL SUPPORT SRVS	917,115	150,386.94	0.00	155,197.23	0.00	761,917.77	16.92
WATER OPERATION	70,228,963	5,175,392.58	0.00	10,425,931.38	0.00	59,803,031.75	14.85
BOND INTEREST	6,333,441	497,154.44	0.00	1,001,271.89	0.00	5,332,169.11	15.81
CAPITAL	6,944,978	549,511.20	0.00	1,106,912.40	0.00	5,838,065.60	15.94
WORK IN PROGRESS	26,223,412	2,801,246.62	0.00	9,116,697.02	0.00	17,106,714.98	34.77
TOTAL ADMINISTRATION	117,083,389	9,598,228.56	0.00	22,776,194.75	0.00	94,307,194.38	19.45
TOTAL EXPENDITURES	117,083,389	9,598,228.56	0.00	22,776,194.75	0.00	94,307,194.38	19.45
REVENUE OVER/(UNDER) EXPENDITURES	(29,450,472)	(2,881,113.76)	0.00	(9,790,536.63)	0.00	(19,659,935.50)	33.24

BALANCE SHEET

AS OF: JUNE 30TH, 2009

01 -WATER FUND

	2008-2009	2009-2010	
ACCOUNT #	ACCOUNT NAME	BALANCE	BALANCE
<hr/>			
ASSETS			
<hr/>			
CURRENT			
CASH	878,943.86	(10,687,007.12)	
INVESTMENTS	72,073,110.28	66,473,665.91	
ACCOUNTS RECEIVABLE			
WATER SALES	3,862,315.05	5,347,235.38	
INTEREST RECEIVABLE	840,974.93	245,705.00	
OTHER	8,328,632.77	7,477,963.88	
INVENTORY & PREPAIDS	473,070.98	540,367.96	
TOTAL CURRENT ASSETS	86,457,047.87	69,397,931.01	
 NONCURRENT ASSETS			
FIXED ASSETS	448,276,568.01	448,182,833.06	
LESS: ACCUMULATED DEPRECIATION	(100,258,319.67)	(106,775,222.37)	
CONSTRUCTION WORK IN PROGRESS	23,871,843.06	24,573,658.55	
LONG TERM RECEIVABLES	5,637,191.54	5,637,191.54	
DEFERRED WATER SUPPLY CONTRACTS	0.00	0.00	
TOTAL NONCURRENT ASSETS	377,527,282.94	371,618,460.78	
TOTAL ASSETS	463,984,330.81	441,016,391.79	
<hr/>			
LIABILITIES			
<hr/>			
CURRENT LIABILITIES			
ACCOUNTS PAYABLE	5,047,611.88	9,296,964.00	
BONDS PAYABLE	20,830,000.00	22,445,000.00	
DUE TO THE COUNTY	0.00	0.00	
ACCRUED INTEREST	1,407,206.25	1,130,497.92	
CONTRACT RETENTION	129,587.17	2,015,473.52	
DEFERRED REVENUE	2,382,589.03	2,242,367.20	
TOTAL CURRENT LIABILITIES	29,796,994.33	37,130,302.64	
 NONCURRENT LIABILITIES			
REVENUE BONDS	78,442,134.90	68,230,836.72	
GENERAL OBLIGATION BONDS	24,296,660.05	12,382,401.79	
DUE TO THE COUNTY	0.00	0.00	
TOTAL NONCURRENT LIABILITIES	102,738,794.95	80,613,238.51	
TOTAL LIABILITIES	132,535,789.28	117,743,541.15	
<hr/>			
BEGINNING EQUITY/RESERVES	330,867,899.20	333,063,387.27	
TOTAL REVENUE	12,258,059.89	12,985,658.12	
TOTAL EXPENSES	11,677,417.56	22,776,194.75	
TOTAL EQUITY/RESERVES	580,642.33	(9,790,536.63)	
NET ASSETS	463,984,330.81	441,016,391.79	