

**GRAND PRAIRIE WATER COMMISSION  
WATER SUPPLY AGREEMENT**

This Water Supply Agreement ("***Agreement***") is made as of \_\_\_\_\_, 2024, by and among the GRAND PRAIRIE WATER COMMISSION, an Illinois regional water commission, municipal corporation and body politic and corporate, the VILLAGE OF CHANNAHON, an Illinois home rule municipal corporation ("***Channahon***"), the CITY OF CREST HILL, an Illinois municipal corporation ("***Crest Hill***"), the CITY OF JOLIET, an Illinois home rule municipal corporation ("***Joliet***"), the VILLAGE OF MINOOKA, an Illinois municipal corporation ("***Minooka***"), the VILLAGE OF ROMEOVILLE, an Illinois home rule municipal corporation ("***Romeoville***"), and the VILLAGE OF SHOREWOOD, an Illinois home rule municipal corporation ("***Shorewood***") (each a "***Party***" and collectively, "***Parties***").

In consideration of the recitals and the mutual covenants and agreements set forth in this Agreement, the Parties agree as follows:

**ARTICLE 1  
RECITALS<sup>1</sup>**

**Section 1.1.**

The Commission was organized under the Regional Water Commissions Act, 65 ILCS 5/11-135.5-1 *et seq.*, to provide adequate supplies of potable Water on an economical and cost-effective basis for the Members, including without limitation to provide a joint waterworks system and common source of Water supply for use.

**Section 1.2.**

The Charter Members have entered into this Agreement in reliance upon the RWC Act which provides that two or more municipalities, at least one of which is located in whole or in part in the county of Cook, Kane, Kendall, Lake, McHenry or Will and has 140,000 inhabitants at the time of establishment of a regional water commission, may, by intergovernmental agreement, establish a regional water commission to provide adequate supplies of Water on an economical and cost-effective basis.

**Section 1.3.**

Article VII, Section 10 of the 1970 Constitution of the State of Illinois authorizes units of local government to contract or otherwise associate among themselves and with certain other governments "to obtain or share services and to exercise, combine or transfer any power or function, in any manner not prohibited by law or by ordinance" as well as to use their revenues, credit and other resources for such activities.

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<sup>1</sup>All defined terms initially appear in bold and italics and thereafter as capitalized words and phrases throughout this Agreement. They shall have the meanings set forth in the preamble, in Articles 1 and 2, and elsewhere in this Agreement.

**Section 1.4.**

The Intergovernmental Cooperation Act, 5 ILCS 220/1 *et seq.*, (“**IC Act**”) also authorizes the joint use and enjoyment of the powers, privileges, functions and authority of governments such as the Commission and the Charter Members.

**Section 1.5.**

The Parties have authority to enter into this intergovernmental agreement pursuant to the RWC Act, the IC Act, Article VII, Section 10 of the 1970 Constitution of the State of Illinois, and other applicable law.

**Section 1.6.**

The Charter Members have each executed counterparts of this Agreement and under the RWC Act are authorized to receive Water through the instrumentality of the Commission and, by executing this Agreement, are enabling the Commission to construct, complete, operate and maintain the Commission System.

**Section 1.7.**

The Charter Members each have a Municipal System and have each received an Allocation.

**Section 1.8.**

The Commission proposes to borrow funds through Bonds that it issues in an amount sufficient to pay Capital Costs, Debt Service and Costs of Financing the Program. From time to time, Bonds will be authorized pursuant to one or more Bond Resolutions and Bond Indentures.

**Section 1.9.**

It is known to the Charter Members that the Commission will, from time to time, use this Agreement as a basis (a) for obtaining loans to be evidenced by the issuance of Bonds, (b) for payment of the principal of, premium, if any, and interest on Bonds, Debt Service and Costs of Financing, (c) as the means for the payment of its cost of purchasing Water from its suppliers, operating and maintenance costs and costs of Commission administration, and (d) for the establishment and maintenance of accounts and reserves for such purposes as may be required in any Bond Resolution or Bond Indenture authorizing issuance of Bonds or as authorized by applicable statutes.

**Section 1.10.**

The Charter Members recognize that in the future the Commission may enter into contracts to supply Water with Additional Members and Customers who have an Allocation, subject to the terms of the IGA and this Agreement.

**Section 1.11.**

The Charter Members are surrendering none of their respective rights to the ownership and operation of their respective Municipal Systems, except as expressly limited in this Agreement, nor is the Commission surrendering any of its rights to the ownership and operation of the Commission System, but all expressly assert their continued right to operate such systems.

## ARTICLE 2 DEFINITIONS AND RULES OF INTERPRETATION

(a) Definitions. Whenever used in this Agreement, the following terms, when capitalized, shall have the following meanings unless a different meaning is provided or required by the context. A definition in the singular form may be used in the plural, and vice versa.

**“Additional Member”** means any municipality other than a Charter Member that becomes a member of the Commission pursuant to the IGA.

**“Advanced Construction Costs”** means costs advanced and incurred by Joliet in connection with the Program and will include, without limitation, costs related to or paid pursuant to any contracts for pre-construction and/or construction services for the Program entered into by Joliet with approval of the Board of Commissioners from time to time, including that certain Contract for the Construction of Chicago Connection Facilities Between the City of Joliet and Walsh Construction Company II, LLC dated November 29, 2023, which was entered into by Joliet pursuant to approval of the Members as provided in Section 3.12 of the Preliminary Agreement, and which may be assigned to the Commission pursuant to Section 6.5 of the IGA. The Advanced Construction Costs do not include debt service on such costs paid by Joliet.

**“Advanced Development Costs”** means costs advanced and incurred by Joliet for the Program, formation of the Commission and the initial Commission System expended for the period beginning in February 2021 through the completion of the Program, and will include, without limitation, costs (without mark-up) for engineering, land acquisition, permitting, legal, government advocacy and financial advisors costs incurred. These development costs will not include any costs incurred: (i) prior to February 1, 2021; (ii) for Joliet’s study of alternative water sources; (iii) for Joliet’s costs incurred in connection with obtaining its Water Allocation from the IDNR; and (iv) for Joliet’s costs with respect to issues unique to its Municipal System. The Advanced Development Costs do not include debt service on such costs paid by Joliet.

**“Agreement”** means this agreement.

**“Allocation”** means a Lake Michigan water allocation permit issued by the IDNR.

**“Amendment”** means any duly executed modification of this Agreement.

**“Average Day Demand”** means the total volume of water in a calendar year divided by the number of days in that calendar year, expressed in units of flow rate (volume per time).

**“Basis of Design”** means the document containing the rationale, principles, criteria, considerations, assumptions, special requirements, and constraints to be used for the design of the initial Commission System and implementation of the Program and establishes a baseline for Program costs, which is included in the Program Management Agreement.

**“Board”** means the Commission’s Board of Commissioners.

**“Bonds”** means any instrument providing for the payment of money authorized or issued by or on behalf of the Commission, or which the Commission has agreed to pay, including without

limitation of the foregoing, bonds, loans, notes, contracts, leases, certificates, and other evidences of indebtedness, issued by the Commission pursuant to a Bond Resolution and payable by their terms solely out of the revenues of the Commission System.

**“Bond Indenture”** means any agreement securing the payment of Bonds.

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

**“Business Day”** means any day except any Saturday, any Sunday, any day which is a federal legal holiday in the United States or a state legal holiday in the State of Illinois or any day on which either the Commission government offices or the government offices of a majority of the Members are closed.

**“Calendar Year”** means a twelve-month period beginning on January 1 and ending on the succeeding December 31.

**“Capacity”** means the quantity of potable water, expressed in MGD, that the Commission System is capable of producing and delivering as determined by the lowest volume of IEPA Permitted Capacity of any element of the Commission System.

**“Capital Costs”** means all costs incurred in the development and performance of the Program, the establishment of the Commission, and the planning, developing, designing, constructing and acquiring of the Commission System or any future Expansions, Minor Upgrades or Improvements to the Commission System; provided, however, that for costs incurred by the Commission for government advocacy services from and after the Effective Date until completion of the Program, Capital Costs shall include fifty percent (50%) of such costs paid by the Commission.

**“Capital Costs Non-Primary”** means a portion of the Capital Costs, and Debt Service and Costs of Financing where applicable, for the Program or an Expansion, Minor Upgrade or Improvement, as applicable, that are included in the Commission Budget and the Program Budget or Expansion Budget, if applicable. Capital Costs Non-Primary includes those Capital Costs and Costs of Financing attributable to Water Delivery Structures and related Connecting Mains other than the Members’ primary Water Delivery Structures and related Connecting Mains, and to Special Benefit Improvements (if any). For the Program, Capital Costs and Costs of Financing are included in Capital Costs Non-Primary.

**“Capital Costs Primary”** means a portion of the Capital Costs, and Debt Service and Costs of Financing where applicable, for the Program or an Expansion, Minor Upgrade or Improvement, as applicable, that are included in the Commission Budget and the Program Budget or Expansion Budget, if applicable. Capital Costs Primary includes those Capital Costs, Debt Service and Costs of Financing attributable to the initial Commission System (or, in the case of an Expansion, Minor Upgrade or Improvement, the then-existing Commission System) from its point of connection to the Chicago water system to each of the Members’ primary Water Delivery Structures and related Connecting Mains and excluding those attributable to the Members’ non-primary Water Delivery Structures and related Connecting Mains and Special Benefit



Improvements (if any). For the Program, Capital Costs and Costs of Financing are included in Capital Costs Primary.

**“Charter Member”** means those municipalities (but not the Commission) listed in the first paragraph on page 1 of this Agreement which have approved and executed the IGA and the required ordinance pursuant to the RWC Act on or before June 30, 2024 and have deposited it with the Secretary of the Commission as required by the IGA.

**“Chicago Water Supply Agreement”** means that certain water supply agreement between the City of Chicago and the City of Joliet dated May 1, 2023, as amended or supplemented from time to time, and to be assigned to the Commission by the City of Joliet.

**“Commission”** means the Grand Prairie Water Commission, Illinois as established by the IGA.

**“Commission Administration Costs”** means all expenses described in Section 6.6.

**“Commission Budget”** means the annual budget of the Commission as adopted pursuant to this Agreement and the Bylaws.

**“Commission Costs”** means those costs described in Article 6.

**“Commission System”** means the waterworks and water supply system of the Commission to bring Water to the Members and any Customers of the Commission, as it may be modified from time to time.

**“Connecting Main”** means the transmission main and related appurtenances connecting a Water Delivery Structure to the mainline of the Commission transmission main.

**“Costs of Financing”** means and includes, without limitation, costs of issuance of any financing by the Commission, Debt Service reserve, coverage, capital and operating reserves, credit enhancements, and capitalized interest.

**“Customer”** means any purchaser of Water from the Commission that is not a Member of the Commission.

**“Debt Service”** means principal, interest and premium, if any, required for the payment of any financing by the Commission, including without limitation all Bonds of the Commission.

**“Declared Maximum Day Demand”** or **“DMDD”** means the amount of Water that a Member of the Commission determines to be necessary to provide the Full Water Requirements of the Member’s customers at various points in time and which will be established for each Member in this Agreement and may be amended from time to time as provided in this Agreement.

**“Declared 2050 Maximum Day Demand”** means the amount of Water that a Member determines to be necessary for it to provide the Full Water Requirements to the Member’s customers in the year 2050.

**“Default Costs”** means the amount of payments of the Members’ and Customers’ shares of Commission Costs which were due and payable and for any reason were not received by the Commission (or the Trustee) by the due date for that billing period.

**“Delivered Quantity”** means the amount of Water delivered by the Commission to a Member at its Point of Delivery.

**“Demand Ratio”** means the ratio determined by dividing each Member’s Declared Maximum Day Demand by the sum of the Declared Maximum Day Demands of all of the Members as of the same point in time, expressed as a percentage. The Demand Ratio shall be carried out to the number of decimal places available in the calculation tool (from time to time) being used to determine the Demand Ratio (as of the Effective Date, Microsoft Excel or equivalent).

**“Device”** means the meter used to measure Delivered Quantity.

**“Dissolution”** means the dissolving and termination of the Commission pursuant to the RWC Act and the terms and conditions of the IGA.

**“Effective Date”** means the date on which this Agreement is approved by the Commission, as shown in the first paragraph on page 1 of this Agreement, following approval by the Charter Members.

**“Estimated Buildout Declared Maximum Day Demand”** means the amount of Water that a Member determines is the estimated amount to be necessary to meet the Member’s Full Water Requirements when the Member is at full community build-out.

**“Expansion”** means an expansion, extension or improvement to the Commission System that increases Capacity other than (i) the construction of the initial Commission System, (ii) any Special Benefit Improvements as described in Section 6.7(h), and (iii) Minor Upgrades.

**“Expansion Budget”** means a budget of the Commission containing all Capital Costs, Debt Service and Costs of Financing for an Expansion.

**“Fiscal Year”** means the Commission’s fiscal year.

**“Force Majeure”** means acts of God, strikes, lockouts or other industrial disturbances, acts of public enemy, orders of any kind of the Government of the United States, of the State of Illinois, or of any civil or military authority, insurrections, riots, epidemics, pandemics, landslides, lightning, earthquakes, fires, hurricanes, storms, floods, washouts, droughts, arrests, restraints of government and people, civil disturbances, explosions, breakage or accidents to machinery, canals, or tunnels, partial or entire failure of Water supply, and inability on the part of the Commission to deliver Water hereunder, or of any Member to receive Water hereunder, and inability of the Commission to borrow money to finance the Program or the acquisition and construction of the Commission System.

**“Full Water Requirements”** means the amount of water necessary, from time to time, to meet the potable water requirements of all then-current customers served by the Municipal System

of a Member (including public use, where applicable), whether such customers are within or outside the corporate limits or applicable service area of such Member.

**“IC Act”** means the Intergovernmental Cooperation Act, 5 ILCS 220/1 *et seq.*

**“IDNR”** means the Illinois Department of Natural Resources or the successor to its responsibilities for allocation of Water.

**“IEPA Permitted Capacity”** means the rated capacity of an element of the Commission System as provided on a permit issued by the Illinois Environmental Protection Agency.

**“IGA”** means the “Intergovernmental Agreement to Establish the Grand Prairie Water Commission” dated \_\_\_\_\_, 2024, as amended from time to time.

**“Improvement”** means an improvement to the Commission System that does not increase Capacity other than (i) the construction of the initial Commission System, and (ii) any Special Benefit Improvements as described in Section 6.7(h).

**“Maximum Day Demand”** means the largest volume of water in a single day in a calendar year, expressed in units of flow rate (volume per time).

**“Member”** means all municipalities that are Charter Members or that become Additional Members of the Commission pursuant to the IGA. The term “Members” does not include municipalities that have withdrawn from the Commission pursuant to the IGA. Member or Members does not include Customers.

**“Member’s Adjusted Share”** means, for each Member, the adjusted share of Capital Costs, and Debt Service and Costs of Financing, as applicable, as described in Section 6.7(b)(i).

**“Member’s Adjusted Percentage Share”** means, for each Member, the adjusted share of Capital Costs, and Debt Service and Costs of Financing, as applicable, expressed as a percentage, as described in Section 6.7(b)(ii).

**“Member’s Payment Share”** means, for each Member, the amount of Capital Costs, and Debt Service and Costs of Financing, as applicable, to be paid by the Member, as described in Section 6.7(b)(iii).

**“MGD”** means million gallons per day.

**“Minor Upgrade”** means an improvement to the Commission System that increases Capacity other than (i) the construction of the initial Commission System, (ii) any Special Benefit Improvements as described in Section 6.7(h), (iii) addition of a new pumping station or expansion of an existing pumping station building or structure, and (iv) an Expansion.

**“Municipal System”** means the waterworks or combined waterworks and sewage system of a Member.

**“Operation and Maintenance Costs”** means all expenses described in Section 6.4 and the accumulation of reserves related to payment of such costs.

**“Peaking Factor”** means Maximum Day Demand divided by Average Day Demand, with both measured in the same units.

**“Point of Delivery”** means the point that is ten (10) feet downstream of the first valve located on the combined discharge line downstream of the Water Delivery Structure at which the Commission System will deliver Water to a Municipal System, as shown in Exhibit E.

**“Preliminary Agreement”** means that certain Preliminary Agreement Regarding Formation of a Regional Water Commission dated February 22, 2022 by and among the Village of Channahon, the City of Crest Hill, the City of Joliet, the Village of Minooka, the Village of Romeoville, and the Village of Shorewood, as amended.

**“Program”** means all activities necessary for design, acquisition, construction, start-up and commissioning of the initial Commission System consistent with the Basis of Design, and also includes certain items necessary for the delivery of Water which will be designed and constructed by the Commission and for which the cost of construction will be paid by the City of Chicago and which will be owned by the City of Chicago pursuant to the Chicago Water Supply Agreement.

**“Program Budget”** means a budget of the Commission containing all Capital Costs, Debt Service and Costs of Financing including for (a) the Program (other than those for which the cost of construction will be paid by the City of Chicago and which will be owned by the City of Chicago pursuant to the Chicago Water Supply Agreement), (b) Advanced Development Costs, and (c) Advanced Construction Costs.

**“Program Management Agreement”** means the “Intergovernmental Agreement for Program Management,” dated \_\_\_\_\_ 2024 as it may be amended from time to time, between the Commission and the City of Joliet for the management of the Program.

**“Projected Average Day Demand”** means an estimate of the Average Day Demand of a Member for one or more future years.

**“Projected Maximum Day Demand”** means an estimate of the Maximum Day Demand of a Member for one or more future years.

**“Retail”** means, in connection with the sales of water, the sale of water to a person or entity that will be the final user or consumer of the water.

**“Reserve Costs”** means all costs and expenses described in Section 6.5 for the accumulation of reserves.

**“RWC Act”** means the Regional Water Commissions Act, 65 ILCS 5/11-135.5-1 *et seq.*, as amended from time to time.

**“Special Benefit Improvements”** means those improvements to the Commission System for the benefit of certain Members, as described in Section 6.7(h).

**“Targeted Water Delivery Date”** means May 1, 2030, unless amended or modified as provided in this Agreement.

**“Term”** means the period described in Section 3.1.

**“Total Water Use”** means the total amount of Water from any source used by a Member for a specified period of time.

**“Trustee”** means a trustee for the benefit of the holders of Bonds who is appointed as provided in any Bond Resolution or Bond Indenture.

**“Water”** means Lake Michigan water.

**“Water Delivery Structure”** means the improvements at which Water delivered by the Commission System to a Municipal System will be received by the Member and the Delivered Quantity will be measured by the Devices, as shown in Exhibit E. The Water Delivery Structure includes, without limitation, structures, equipment, control valves, Devices, and piping and appurtenances necessary for delivery, receipt and measurement of Water.

**“Wholesale”** means, in connection with the sales of water, the sale of water to an entity that will re-sell the water to others.

(b) References to Provisions and Exhibits. All references in this Agreement to an Article, Section, Subsection or Exhibit mean and refer to an Article, Section, Subsection of or Exhibit to, this Agreement, unless otherwise expressly provided.

(c) Article and Section Headings; Other Headings. Article headings, Section headings or other headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

(d) Successor Statutes and Regulations. If substantive provisions of statutory or regulatory provisions referred to in this Agreement are relocated to another reference, such as due to a recodification of laws, the Parties intend that such references will mean and refer to the statutory or regulatory provisions at their new locations.

### ARTICLE 3 TERM AND RENEWAL

#### Section 3.1. Effective Date; Term.

This Agreement shall be in force and effect for a period that shall begin on the Effective Date and end on December 31, 2123.

#### Section 3.2. Renewal Process.

The Parties agree to begin negotiation of a succeeding Water Supply Agreement not later than five (5) years prior to the end of the Term of this Agreement.

**Section 3.3. Commission Obligations.**

The Commission's obligation to furnish water upon the termination of any agreement with a water supplier, such as the City of Chicago, shall be contingent on the ability of the Commission to enter into an extension or replacement of that agreement or otherwise arrange for an alternate supply of water.

**Section 3.4. Amendment of this Agreement or the Chicago Water Supply Agreement.**

(a) Except for revisions and adjustments otherwise expressly provided for, neither this Agreement nor the Chicago Water Supply Agreement may be changed, modified or amended, and the Chicago Water Supply Agreement shall not be renewed or terminated, unless the approval of the Commission and all of the Members shall have been obtained. Such approval must be evidenced by an ordinance of each Member and an ordinance of the Commission filed with the Secretary of the Commission. Such change, modification or amendment of this Agreement or the Chicago Water Supply Agreement, or the renewal or termination of the Chicago Water Supply Agreement, may be requested by any Party, in which event a joint meeting of representatives of all governing bodies of the Parties (which may include representatives of the Members other than the Commissioners and Alternate Commissioners) shall be called by the Commission and held not more than sixty (60) days after such request is made and not less than thirty (30) days after the giving of notice of such meeting. The requirements of this Section 3.4 shall not apply to any revisions, adjustments, changes, modifications or amendments to the Chicago Water Supply Agreement that are made in connection with the assignment of the Chicago Water Supply Agreement by Joliet to the Commission as provided by Section 6.4 of the IGA.

(b) No such change, modification or amendment of this Agreement or the Chicago Water Supply Agreement, or renewal or termination of the Chicago Water Supply Agreement, may (i) materially impair or adversely affect the ability or obligation under this Agreement of any Member to make payments to the Commission at the times, in the amounts, and with the priority required in order for the Commission to meet its obligations in a timely manner under this Agreement, the Chicago Water Supply Agreement, other water supply agreements of the Commission and any Bond Resolution or Bond Indenture, including by way of illustration and not limitation, the making of all deposits in various funds and accounts created under any Bond Resolution or Bond Indenture or (ii) materially impair or adversely affect the ability of the holders of Bonds or a Trustee under this Agreement or any Bond Resolution or Bond Indenture to enforce the terms of this Agreement.

(c) No such change, modification or amendment of this Agreement or the Chicago Water Supply Agreement, or renewal or termination of the Chicago Water Supply Agreement which will (i) affect the rights and interests of the holders of Bonds, or (ii) cause a violation of any provisions of any Bond Resolution or Bond Indenture, shall be made except as provided in and permitted by any Bond Resolution or Bond Indenture so long as such Bond Resolution or Bond Indenture is in effect. If the Commission should pledge or assign any of its rights under this Agreement to a Trustee in connection with the sale, issuance and payment of Bonds, then this Agreement shall not be terminated, revoked, amended or modified except as provided in and permitted by a Bond Resolution or Bond Indenture so long as such Bond Resolution or Bond Indenture is in effect. The provisions of this Section 3.4 are specifically made subject to Section 7.1(f).

## **ARTICLE 4**

### **SALE AND PURCHASE OF WATER**

#### **Section 4.1. Sale and Purchase.**

The Commission agrees to sell Water to each Member, and each Member agrees to purchase Water from the Commission, on the terms and subject to the conditions set forth in this Agreement.

#### **Section 4.2. Declared Maximum Day Demand.**

(a) Establishment. The Declared Maximum Day Demand of the Members of the Commission shall be included in this Agreement. Each Member has declared (i) its Declared 2050 Maximum Day Demand and (ii) its Estimated Buildout Declared Maximum Day Demand, both of which are stated in Exhibit A and may be modified pursuant to the process established in this Section. Any Additional Member shall declare the amount of its Declared Maximum Day Demand for the times required by the Commission at the time of membership. All Members shall provide updated amounts for their respective Declared Maximum Day Demand when and as required by this Agreement.

(b) Existing Capacity. The Capacity of the Commission System may be reassigned among Commission Members prior to an Expansion of the Commission System and make any required payments pursuant to the methodology in Section 6.7.

- i. Reassignment of Excess DMDD to Existing Members and Customers. If any Member determines that it no longer needs its Declared Maximum Day Demand, that Member must offer its excess DMDD to the Commission for reassignment, which amount will be offered for reassignment first to Charter Members, then to Additional Members and then to Customers. All Members wishing to include all or a portion of that excess DMDD as part of its Declared Maximum Day Demand shall notify the Commission of their requested portion of the excess DMDD. If the total excess DMDD requested is less than or equal to the excess DMDD available, then the excess DMDD shall be reassigned. If the total excess DMDD requested exceeds the total excess DMDD available, then the available excess DMDD shall be reassigned first to the requesting Charter Members in equal shares and any remaining available excess DMDD shall be reassigned to the requesting Additional Members in equal shares before any available excess DMDD is reassigned to requesting Customers.
- ii. Reassignment of Excess Due to Minor Upgrade. If a Minor Upgrade to one or more elements of the Commission System results in an increase in the IEPA Permitted Capacity of such elements and such increase or increases result in an increase in the Capacity of the Commission System, then the difference between the sum of the then-current DMDD of the Charter Members and the increased Capacity shall be reassigned to the Charter Members proportionally based on then-current Declared Maximum Day Demand unless otherwise reassigned in a manner provided in this Agreement.

- iii. Member Request for Additional DMDD. If any Member determines that it needs a quantity of Water larger than its Declared Maximum Day Demand, the Member may notify the Commission and request additional Declared Maximum Day Demand. Upon receipt of such a request, the Commission shall evaluate whether there is any available Capacity of the Commission System that is not included in another Member's or Customer's Declared Maximum Day Demand, notify the other Members and Customers and inquire if they have any excess DMDD that they will not require either on a temporary or permanent basis, and, if no addition DMDD is available, consider options for possible Minor Upgrades to or Expansion of the Commission System's Capacity.
- iv. Reassignment of Excess DMDD to Potential Additional Members or Customers. If the Commission is considering adding an Additional Member or Customer pursuant to the requirements of the IGA and Bylaws, and the potential Additional Member or Customer will require an assignment of Declared Maximum Day in order to enter into an agreement to purchase Water from the Commission, then the Commission shall notify all Members and Customers (if any) and inquire if they have any excess DMDD that they will not require either on a temporary or permanent basis and are willing to reassign for this purpose. If the amount of excess DMDD available to be reassigned is sufficient to meet the total required for the potential new Additional Member or Customer, then the Commission shall allow the excess DMDD to be reassigned. If multiple Members or Customers (if any) advise that they have an amount of excess DMDD that could be reassigned to the potential new Additional Member or Customer and the total amount of excess DMDD available exceeds the amount of DMDD required to serve the potential new Additional Member or Customer, then the Commission shall allow the Charter Members with excess DMDD to each reassign an equal amount of their excess DMDD to meet the total required for the potential new Additional Member or Customer. If the amount of excess DMDD reassigned from the Charter Members is insufficient to meet the total required for the potential new Additional Member or Customer, then the Commission shall allow the existing Additional Members with excess DMDD to each reassign an equal amount of their excess DMDD in order to meet the total required for the potential new Additional Member or Customer. If the excess DMDD reassigned from the Charter Members and Additional Members is insufficient to meet the total required for the potential new Additional Member or Customer and there are existing Customers with excess DMDD to be reassigned, then the Commission shall allow the existing Customers to each reassign an equal amount of their excess DMDD to meet the total required for the potential new Additional Member or Customer.
- v. Member Required to Obtain Additional DMDD. If regular monitoring of Member water usage indicates a Member has exceeded its then-current Declared Maximum Day Demand, the Member will be required to obtain additional DMDD through the reassignment process in Subsection i above or a temporary sharing or lending arrangement involving volunteering Members with excess Declared Maximum Day Demand and Members who have



identified a need for additional DMDD above their Declared Maximum Day Demand.

- vi. Return of Stateville-Attributed DMDD to Commission. If the Stateville Correctional Center (consisting solely of the Level 1 Stateville Correctional Center, to the exclusion of the Northern Reception and Classification Center, the Stateville Minimum Security Unit and the District 5 facility of the Illinois State Police) located in the City of Crest Hill closes in full, then Crest Hill will have the option, in its sole discretion, to return the portion of its then-current Declared Maximum Day Demand attributable to Stateville Correctional Center (as shown on Exhibit A) to the Commission and the then-current portion of the Capacity and the Capital Costs, Debt Service and Costs of Financing attributable to the returned portion of the Declared Maximum Day Demand will be allocated proportionally among the Members (including Crest Hill) based on then-current Declared Maximum Day Demand unless otherwise reallocated in a manner provided in this Agreement. Crest Hill agrees to work with the Commission in order to retain Stateville Correctional Center as a Crest Hill water customer, provided that the terms of retaining Stateville Correctional Center are equitable to Crest Hill and its other water customers. If Stateville Correctional Center closes in part, the Parties agree to discuss the reassignment of Crest Hill's Declared Maximum Day Demand attributable to the closure to all Members (including Crest Hill).
- vii. Reassignment of Reserved DMDD for Lemont. If the Village of Lemont does not enter into an agreement with the Commission as described in Section 4.13(a) by November 30, 2024, no DMDD for Lemont will be created in the Commission System. If the Village of Lemont does not exercise its option to become a Customer of the Commission (as authorized in Section 4.13(a)), then its DMDD as described on Exhibit A shall be reassigned to the Charter Members proportionally based on then-current Declared Maximum Day Demand unless otherwise reassigned in a manner provided in this Agreement.
- viii. General. If a Member receives a reassignment of DMDD pursuant to Subsections (i), (ii), (iii), or (vi) of this Subsection 4.2(b), the Commission shall determine whether delivery of additional Water to the requesting Members will be technically feasible using the then-current Commission System. If it is not technically feasible to deliver Water to the Member up to the increased amount of DMDD, as determined by the Commission, then the Member has the following options:
  - A. The Member can request modifications to the Commission System to make it technically feasible for the additional DMDD to be delivered to one of the Water Delivery Structures serving the Member. Such modifications will be considered Special Benefit Improvements and will be made at the Member's expense; or
  - B. The Member can retain the DMDD and not use it; or

- C. The Member can offer the DMDD for reassignment as excess capacity pursuant to this Subsection 4.2(b).

(c) Expansion. In the event that the Capacity of the Commission System is expanded from time to time through an Expansion, subsequent to completion of the Program, each Member will have the opportunity to adjust the amount of its Declared Maximum Day Demand based on the total Capacity of the expanded Commission System, subject to the following:

- i. Each Member of the Commission that wishes to participate can adjust its Declared Maximum Day Demand and will be required to contribute to the Capital Costs, Debt Service and Costs of Financing for the Expansion pursuant to the methodology in Section 6.7.
- ii. At the time of any Expansion of the Commission System, any Member not wishing to participate in paying for the cost of such an Expansion will not be entitled to obtain an increase in its share of Capacity resulting from the Expansion, will not be required to contribute financially, will not be eligible to receive any reallocation of Capital Costs, Debt Service and Costs of Financing amounts previously paid by the Member, and will be deemed to have waived any right of its Commissioner to vote on any matters pertaining to the design and construction of the Expansion. If a Member chooses not to participate in an Expansion and requires additional Capacity in the future and additional Capacity from an Expansion is available, that Member will be required to follow the reassignment process in Subsection 4.2(b).
- iii. Expansion shall be limited to the extent that a Member with excess DMDD is willing to transfer that excess DMDD to a Member needing additional DMDD and the delivery of such DMDD to the other Member is technically feasible.

(d) Reassignment Upon Withdrawal. In the event that a portion of the Capacity of the Commission System becomes available due to the withdrawal of a Member from the Commission, then the withdrawn Member's portion of the Declared Maximum Day Demand and the Capital Costs, Debt Service and Costs of Financing attributable to the withdrawn Member's portion of the Declared Maximum Day Demand will be allocated proportionally among the Charter Members based on then-current Declared Maximum Day Demand unless otherwise reallocated in a manner provided in this Agreement.

(e) Implementation of Reassignments. Any changes in a Member's Declared Maximum Day Demand shall be effective only if submitted to the Commission in the form of an ordinance approved by the Member's corporate authorities and approved by ordinance of the Board of Commissioners. The Commission ordinance shall include an updated Exhibit A to reflect the new Declared Maximum Day Demand amounts, which shall be included in this Agreement without further approval by the corporate authorities of the Members. No reassignment of DMDD shall be effective unless the Member or Customer receiving the reassigned DMDD agrees to assume the payment obligations under this Agreement associated with the reassigned DMDD. If a Member offers a portion of its DMDD for reassignment to another Member or Customer, the Member offering such DMDD shall continue to be responsible for all payment obligations under this

Agreement associated with such DMDD until such DMDD is reassigned to another Member or Customer which has assumed such payment obligations under this Agreement.

(f) Limit on Estimated Buildout Declared Maximum Day Demand. No Member or Customer may exceed its Estimated Buildout Declared Maximum Day Demand unless it obtains additional Estimated Buildout Declared Maximum Day Demand from another Member (or Customer, if any) pursuant to the procedures in this Section 4.2.

**Section 4.3. Amount.**

(a) The Commission shall sell to each Member and each Member agrees to purchase from the Commission an amount of Water necessary to serve its Full Water Requirements.

(b) By May 31 of each calendar year, each Member shall provide to the Commission its Projected Maximum Day Demand and Projected Average Day Demand for the following calendar year. These projections shall include any Wholesale water sales by the Members.

(c) The Commission System is designed to provide not less than the total of all Declared Maximum Day Demands declared by or reserved for Members and Customers from time to time as shown on Exhibit A. If the Commission System has the ability to provide more Water and sufficient Water is available to the Commission, then the Commission may sell to any Member that so desires an amount of Water in excess of its Declared Maximum Day Demand, but the Commission does not hereby guarantee a supply of such additional amounts.

(d) Each Member agrees that Water from the Commission will be its sole water source to provide the Member's Full Water Requirements from time to time, except as otherwise permitted pursuant to Section 4.7. As of the Effective Date, certain areas within the corporate limits of the Members receive a water source other than the Member, as described on Exhibit B. A Member may request a waiver from the Board of Commissioners from the requirement that the Commission be the Member's sole water source to provide the Member's Full Water Requirements based on a specific request by that Member to exclude certain territory from this requirement for a period of time authorized by the Board of Commissioners. Such a waiver may be subject to such conditions, requirements and payments as the Board of Commissioners may require. Any request for such a waiver may be approved by the Board of Commissioners.

(e) Each Member shall draw Water from the Commission System at a uniform rate of flow during the 24 hours of each day, which shall not exceed the quantity equal to lesser of the Member's Declared Maximum Day Demand or the amount allowed by the Member's maximum Peaking Factor, so long as technically feasible. Members shall notify the Commission on a daily basis as to its requested rate of flow for the day at each of its Water Delivery Structures. If a Member fails to notify the Commission of its requested rate of flow for a particular day, the requested rate of flow for that Member shall be deemed to be the same as the Member's most recent notice of its requested rate of flow.

(f) A Member shall not use Water from the Commission in amounts in excess of its maximum Peaking Factor, based on the then-current population of the Member as well as any service areas of the Member outside of its corporate limits, as follows:

Population Served	Maximum Peaking Factor
Under 25,000	2.00
25,000 to 49,999	1.80
Over 50,000	1.60

(g) Compliance of the Members shall be determined annually for each calendar year. Members shall certify to the Commission on an annual basis the following: the population that it serves within the municipal/corporate limits, as determined pursuant to Section 1-7-2 of the Illinois Municipal Code<sup>2</sup> and such other data as is available, and the population that it serves in areas outside the municipal/corporate limits based upon such data as is available. It is understood that certain conditions might result in a Member exceeding its Peaking Factor, which may include watermain breaks, fire suppression, system flush of contaminants, power outages, or other causes outside the Member's control. Members shall communicate adverse conditions to the Commission to minimize potential to impact the overall peaking factor of the Commission. Failure by a Member to comply with these maximum limits may result in an additional charge or fee to be paid by that Member, as may be determined by the Board of Commissioners.

(h) The Board of Commissioners may establish controls to minimize the Commission's Peaking Factor, which may include reasonable periodic limitations on the quantity of Water supplied to Members.

(i) The Members shall adopt by ordinance, and abide by, minimum requirements for water conservation established from time to time by the Board of Commissioners (which shall not be less than the minimum requirements established by IDNR), and require compliance by their customers with such ordinances.

(j) The Parties agree that a Member with more Declared Maximum Day Demand than it requires can agree to allow another Member to receive Water based on a portion of that Declared Maximum Day Demand on an interim basis pursuant to a sharing or lending agreement between those Members, a copy of which shall be provided to the Commission. If such an agreement is provided, and delivery of the Water to the other Member is technically feasible, the Commission will adjust the total amount of Declared Maximum Day Demand available to each participating Member in accordance with such agreement.

#### **Section 4.4. Limits on Supply.**

(a) The Commission shall use its best efforts to furnish Water to the Members as provided in Section 4.3, but its obligation hereunder shall be limited by: (i) the amount of Water available

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<sup>2</sup> 65 ILCS 5/1-7-2 states in part: "Whenever in this Code any provision thereof is based upon the number of inhabitants, the number of inhabitants of the municipality shall be determined by reference to the latest census taken by authority of the United States or this state, or of that municipality. It is the duty of the Secretary of State, upon the publication of any state or United States census or the certification of any municipal census referenced under Section 1-7-1, to certify to each municipality the number of inhabitants, as shown by that census. In the event that a partial census is conducted pursuant to Section 1-7-1, the Secretary of State shall certify the total number of inhabitants of the municipality as the number reflected by the last complete census of the municipality adjusted by the net increase or decrease reflected by the partial census...."

to the Commission from time to time; (ii) the Capacity of the Commission System; (iii) ordinary transmission loss, including standard metering error, between the Commission's source of supply and the Points of Delivery; (iv) the ability of the Commission System to furnish the Water without adverse effects to the operation of the Commission System, such as a drop in pressure in the Commission System to levels below the requirements of applicable law; and (v) matters beyond the reasonable control of the Commission which prevent delivery of Water to any Member at a Point of Delivery.

(b) The Commission shall not enter into contracts with Additional Members and Customers that would cause the Commission to be obligated to sell Water in excess of the least of: (i) the Commission System's Capacity; (ii) the maximum amount of Water available to it under the Chicago Water Supply Agreement; or (iii) an amount which would decrease the amount of Water then being supplied or to be supplied in the future to the Members pursuant to this Agreement and to Customers pursuant to agreements between the Commission and such Customers.

#### **Section 4.5. Maintenance, Emergencies, and Impact on Quantities and Curtailment.**

The Commission and each of the Members agree to communicate regularly about maintenance needs for, and emergencies occurring on, the Commission System and the Member's Municipal System and to coordinate their actions in a manner so as to minimize any actual or potential impact on the supply of Water from the Commission System to the Members' Municipal Systems and to minimize the actual or potential impact of the operation of the Members' Municipal Systems on the Commission System.

(a) Commission Planned Maintenance. The Members understand that as part of the operation of the Commission System, the Commission will perform planned maintenance on the Commission System that may or will affect the delivery of Water to the Members from time to time. Planned maintenance includes four categories, which are defined as follows:

i. Level One Maintenance. Level One Maintenance is planned maintenance by the Commission that may or will cause the Commission to be unable to deliver the Declared Maximum Day Demand to one or more of the Members but the Commission will be able to deliver the Projected Maximum Day Demand for the affected Members during such maintenance. The Commission shall notify the affected Members that it plans to perform Level One Maintenance not less than two (2) Business Days prior to commencement of such work.

ii. Level Two Maintenance. Level Two Maintenance is planned maintenance that may or will cause the Commission to be unable to deliver the Projected Maximum Day Demand for the affected Members but the Commission will be able to deliver to each affected Member the amount of the Member's Projected Average Day Demand during such maintenance. The Commission shall notify the affected Members that it plans to perform Level Two Maintenance not less than thirty (30) days prior to commencement of such work. The Commission will perform all Level Two Maintenance within a timeframe consistent with the Water storage capacity of the affected Members and any Wholesale purchasers of the affected Members.

iii. Level Three Maintenance. Level Three Maintenance is planned maintenance that may or will cause the Commission to be unable to deliver the Projected Average Day Demand for the affected Members from the Member during all or any portion of such maintenance. The Commission shall notify the affected Members that it plans to perform Level Three Maintenance not less than ninety (90) days prior to commencement of such work. The Commission will perform all Level Three Maintenance within a timeframe consistent with the Water storage capacity of the affected Members and their Wholesale purchasers.

iv. Level Four Maintenance. Level Four Maintenance is planned maintenance that may or will cause the Commission to be unable to deliver the Projected Average Day Demand for the affected Members during such maintenance, and that cannot be performed within a timeframe consistent with the Water storage capacity of the affected Members. The Commission shall notify the affected Members that it plans to perform Level Four Maintenance not less than six (6) months prior to commencement of such work. The Commission shall meet with the affected Members during the planning and performance of all Level Four Maintenance so as to minimize the impact of the Commission's inability to deliver the Projected Average Day Demand for the affected Members during such maintenance. The Commission shall take such actions, including without limitation making and expediting repairs or adjustments, as are necessary to restore delivery to the affected Members of the Water required to be furnished pursuant to this Agreement.

Notices of planned maintenance that the Commission is required to provide under this Section 4.5 shall comply with the requirements of Subsection 4.5(b). Members are prohibited from selling water for emergency water supply to non-Members when the Commission has limited or curtailed the Delivered Quantity to one or more Members, as provided in Section 4.12(b).

(b) Content of Notices by the Commission. All notices required to be given by the Commission to the affected Members regarding maintenance pursuant to this Section 4.5 shall include at least the following information:

- i. a description of the maintenance and the reason why it is required;
- ii. the anticipated impact on the supply of Water to the affected Members;
- iii. the anticipated duration of the maintenance;
- iv. the quantity of Water that the Commission will be able to supply to the affected Members during, and following completion of, the maintenance; and
- v. the anticipated commencement and completion dates for the maintenance.

(c) Emergency, Failure or Malfunction in the Commission System. If, from time to time and for any reason, including without limitation emergency, failure or malfunction in the Commission System, the Commission is unable to furnish to any of the Members their Projected Maximum Day Demand, the Commission shall notify the affected Members thereof and use due diligence to operate the Commission System during any such occurrence to provide Water to the affected Members insofar as practicable and shall, as promptly as possible, take such actions,

including without limitation making and expediting repairs or adjustments, as are necessary to restore delivery to the affected Members of the Water required to be furnished pursuant to this Agreement. The Commission shall have the right to restrict the supply of Water to the affected Members during such time in order to ensure an adequate Water supply to all Members and Customers for public health and fire protection. The Commission shall provide an initial notice to the affected Members as soon as practicable after discovery regarding the Commission's inability to furnish the Members' Declared Maximum Day Demand to the affected Members and the scope and extent of the known limitations. Promptly after assessment of such inability, the Commission shall provide notice to the affected Members containing at least the following information necessary to restore delivery to the affected Members of the Water to be furnished pursuant to this Agreement:

- i. a description of the causes of the Commission's inability to furnish the Members' Declared Maximum Day Demand to the affected Members;
- ii. the anticipated impact on the supply of Water to the affected Members;
- iii. the actions necessary to restore delivery to the affected Members of the Water to be furnished pursuant to this Agreement;
- iv. the quantity of Water that the Commission will be able to supply to the affected Members during, and following completion of, the actions necessary to restore delivery to the affected Members of the Water to be furnished pursuant to this Agreement; and
- v. the anticipated commencement and completion dates for the actions described in the notice.

(d) Members' Planned Maintenance. The Commission understands that as part of the operation of their respective Municipal Systems, each Member will perform planned maintenance on its respective Municipal System that may or will affect the ability of the Member to accept delivery of Water from the Commission from time to time and will coordinate the delivery of Water to that Member to take into account any needs for an increased or reduced rate of delivery of Water (which may include delivery of Water to another Water Delivery Structure of the Member, if hydraulically possible) prior to, during and after such maintenance.

(e) Content of Notices by Members. Each Member shall notify the Commission that it plans to perform planned maintenance on its Municipal System not less than thirty (30) days prior to commencement of such work. All notices required to be given by the Member to the Commission regarding maintenance pursuant to this Section 4.5 shall include at least the following information:

- i. a description of the maintenance and the reason why it is required;
- ii. the anticipated impact on its Municipal System operations and receipt of Water by the Member;
- iii. the anticipated duration of the maintenance;

- iv. the quantity of Water that the Member will be able to receive from the Commission during, and following completion of, the maintenance; and
- v. the anticipated commencement and completion dates for the maintenance.

The Commission shall review all such notices and notify any other Members whose Municipal System may be affected by the planned maintenance by another Member on its Municipal System.

(f) Emergency, Failure or Malfunction in a Municipal System. If, from time to time and for any reason, including without limitation emergency, failure or malfunction in a Member's Municipal System, the Member is unable to receive delivery of the Member's Declared Maximum Day Demand, the Member shall notify the Commission thereof. The Member shall use due diligence to operate its Municipal System during any such occurrence to receive Water from the Commission at an increased or reduced rate of delivery of Water (which may include delivery of Water to another Water Delivery Structure of the Member, if hydraulically possible) prior to, during and after such repairs and adjustments insofar as practicable. The Member shall provide an initial notice to the Commission as soon as practicable after discovery regarding the Member's inability to receive the Member's Declared Maximum Day Demand and the scope and extent of the known limitations. The Member shall, as promptly as possible, take such actions, including without limitation making and expediting repairs or adjustments, as are necessary to restore the ability of its Municipal System to receive delivery from the Commission of the Member's Declared Maximum Day Demand. Promptly after assessment of such inability, the Member shall provide notice to the Commission containing at least the following information necessary to restore the Member's ability to receive delivery from the Commission of the Member's Declared Maximum Day Demand:

- i. a description of the causes of the Member's inability to receive the Member's Declared Maximum Day Demand to be delivered by the Commission;
- ii. the anticipated impact on the Member's Municipal System operations and supply of Water received by the Member;
- iii. the actions necessary to restore the Member's ability to receive delivery from the Commission of the Water to be furnished pursuant to this Agreement and the anticipated duration of these actions;
- iv. the quantity of Water that the Member will be able to receive from the Commission during, and following completion of, the actions necessary to restore the Member's ability to receive delivery from the Commission of the Water to be furnished pursuant to this Agreement;
- v. any anticipated impact, if any, on the Commission System; and
- vi. the anticipated commencement and completion dates for the actions described in the notice.



**Section 4.6. Storage.**

Each Member shall maintain not less than the same quantity of water storage capacity that it has in place as of the Effective Date through December 31, 2039 and shall provide and maintain water storage in an amount equal to at least two times its daily allocation amount in the Member's Allocation not later than January 1, 2040 and during the remainder of the Term of this Agreement. In the event of a curtailment of water supply that lasts longer than the available Water storage during the period prior to January 1, 2040, the Members shall be responsible to obtain water from existing storage as well as from an alternative water source other than the Water provided by the Commission. Members will not receive credit toward this requirement through an allocation of storage from the Commission System. Upon request from the Commission, each Member shall provide to the Commission a report of its total storage capacity and the storage capacity of any of its Wholesale customers, including the type of water storage facilities used in calculating its storage capacity.

**Section 4.7. Emergency Use of Other Sources.**

(a) If it becomes necessary for the Commission to limit its delivery of Water to its Members for any reason, during such period of curtailment each Member, to the fullest extent possible, shall be entitled to receive during such period of curtailment its pro-rata share of Water available as determined by the ratio of its total Delivered Quantity during the prior Fiscal Year to the sum of the Delivered Quantities during the prior Fiscal Year of all Members and Customers entitled to Water. During such period of time when the Commission is unable to supply Water to the Members, the Members may receive water from other providers for water service in any amount and from any source in order to supply the Members, subject to applicable laws and regulations; during any other period of time, the Members shall not receive water from other providers.

(b) Nothing in this Agreement shall be construed to prohibit each Member from serving its customers in cases of emergency, or when the Commission for whatever reason is unable to meet such Member's Full Water Requirements, from any source including wells owned by such Member and maintained for emergency use. Each Member should have access to an alternate water supply source or sources in the event that an outage in the Commission Water supply exceeds two (2) days, consistent with Section 4.13.

**Section 4.8. Delivery and Title.**

(a) The Commission shall deliver Water to each Member through Points of Delivery at the Water Delivery Structures for that Member. The approximate locations for the primary, non-primary and proposed future Water Delivery Structures shall be provided in writing to the Commission by each Member immediately following the Member's execution of this Agreement. However, a Member may receive delivery of Water from the Commission at a Water Delivery Structure receiving Water for that Member via the Municipal System of another Member pursuant to an agreement approved by the Board of Commissioners and the corporate authorities of the Members participating in such a delivery method. The Parties acknowledge that as of the Effective Date, the Village of Channahon will receive Water at its secondary Water Delivery Structure and Point of Delivery pursuant to such an agreement with the City of Joliet.

(b) Title to Water delivered under this Agreement shall pass from the Commission to the Member at the Point of Delivery.

(c) The Water Delivery Structures described in this Section are part of the Commission System. The Water Commission will design, construct, own, operate and maintain all Members' primary and additional Water Delivery Structures and Points of Delivery. The Water Delivery Structures and Points of Delivery described in this Section, and any replacement or improvement of them, shall generally conform to the requirements of the Basis of Design.

(d) Each Member shall have a primary Point of Delivery and Water Delivery Structure and may have additional Points of Delivery and Water Delivery Structures. A single Water Delivery Structure, together with its related Point of Delivery and Connecting Main, for each Member will be designated as the primary Point of Delivery for that Member and will be designed and constructed at the cost of the Commission at the location provided by the Member pursuant to Subsection (a) of this Section. Additional Water Delivery Structures, together with their related Points of Delivery and Connecting Mains, to serve Members shall also be designed and constructed pursuant to Subsection (a), and the costs of design and construction of those additional Water Delivery Structures and Points of Delivery and Connecting Mains will be paid by the Member in accordance with Section 6.7.

(e) Future Water Delivery Structures and Points of Delivery and Connecting Mains, other than those at locations provided to the Commission pursuant to Subsection (a) of this Section, may be established upon the mutual agreement of the Commission and the Member and shall also generally conform to requirements of the Basis of Design. Any such future Water Delivery Structures and Points of Delivery, other than those identified pursuant to Subsection (a) of this Section, shall be located at points of the Commission System that do not negatively impact Water service to any of the Members. Such additional Water Delivery Structures and Points of Delivery and Connecting Mains shall be designed, constructed, owned, operated and maintained by the Commission and the costs of such design and construction shall be paid by the Member.

#### **Section 4.9. Quality.**

(a) General. Water quality within the Commission System will be managed by the Commission. Water delivered by the Commission to the Members at the Points of Delivery shall be consistent with the applicable standards of any Federal and State agencies with jurisdiction over the operation of public water supplies. The Commission bears no responsibility for the contamination of Water or deterioration of Water quality occurring downstream of the Points of Delivery. Water quality beyond the Points of Delivery to each Member is the responsibility of that Member.

(b) Surge or Backflow. Each Member shall operate its Municipal System so as to not cause a surge or backflow into the Commission System or cause pressure in the Commission System to drop below 20 psi or such higher pressure as required by law. The Water Delivery Structure and Point of Delivery will include a flow control valve with sustaining and check features. Unless otherwise provided by the Board of Commissioners, (i) the flow control valve will be set by the Commission operator at the flow requested by the Member pursuant to this Agreement, and (ii) if the Municipal System has a surge or backflow which causes reversal of flow in the flow control valve, the valve will close. The Commission shall not be responsible for any damage to the Municipal System caused by design, operation or maintenance of the Member's Water Delivery Structures, Points of Delivery and Connecting Mains.

(c) Protection of Water Systems. The Commission shall operate the Commission System, and each Member shall operate its respective Municipal System, in such a manner as at no time (i) to place the Commission, or the Commission System, or any Member, or the Member's Municipal System, in jeopardy of failing to meet the regulations of any federal, State, or local agency or governmental authority having jurisdiction over the operation of the Commission System or each Municipal System, as applicable, from time to time, and (ii) to cause damage to the Commission System or a Municipal System, respectively.

(d) Emergency Events. The Parties shall notify other Parties as provided in Subsection (e) of this Section in the event of:

- i. any failure of the Water in the Commission System or a Member's Municipal System to meet the applicable standards of any federal, State or local agency with jurisdiction over public water supplies, or if said Water exhibits changes in taste, odor, texture or appearance;
- ii. an emergency due to a failure, malfunction or catastrophic event that will materially impact the quality of Water supplied by the Commission to the Members; or
- iii. any emergency, threat or other condition that could reasonably be expected to affect the quality of Water within either the Commission System or one or more of the Members' Municipal Systems.

(e) Notices Required. If the Commission identifies an emergency event described in Subsection (d) of this Section that affects the Commission System and the quality of Water delivered by the Commission, the Commission shall provide an initial notice to any potentially affected Members, and if a Member identifies an emergency event described in Subsection (d) of this Section that affects its Municipal System and may affect the quality of Water in the Member's Municipal System or the Commission System, that Member shall provide an initial notice to the Commission. The Commission shall notify other Members about a notice received from a Member under this Section if the information in the notice may affect the Municipal System or Water supplied to the Municipal System of the other Members. In each case, notice shall be given as soon as practicable after discovery of any of the Water quality conditions described in Subsection (d) and, to the extent known, the scope and extent of the identified conditions. Promptly after assessment of the Water quality conditions, the Party providing the initial notice shall provide a second notice to the Party originally notified containing at least the following information regarding restoration of Water quality and describing the actions necessary to address the conditions identified:

- i. a description of the causes of the Water quality conditions identified;
- ii. the anticipated impact on either of the following, as applicable: (A) the ability of the Commission to provide Water to one or more Members that meets the requirements of this Agreement or (B) the Commission System due to an emergency or other condition of a Member's Municipal System;

- iii. the actions necessary to, as applicable, (A) restore delivery to the Member of Water that meets the requirements of this Agreement or (B) address the emergency or other condition in the Member's Municipal System that may affect Water quality in the Commission System or a Member's Municipal System, and the anticipated duration of these actions;
- iv. if the identified Water quality conditions will cause a reduction in either (A) the quantity of Water provided by the Commission to the Members, or (B) a Member's ability to accept Water from the Commission, then the notice shall state the quantity of Water that the Commission anticipates it will be able to supply to the Members, or the quantity of Water that the Member anticipates it will be able to receive from the Commission, as applicable, for the period during and following completion of the actions necessary to restore delivery to the Members of the Water to be furnished pursuant to this Agreement; and
- v. the anticipated commencement and completion dates for the actions described in the notice.

(f) Mutual Water Quality Assistance. The Commission may request assistance from one or more Members, and one or more Members may request assistance from the Commission, in connection with matters pertaining to or affecting Water quality. As part of providing assistance to the other Party, the Party that receives a request to provide assistance may, with consent from and prior notice to, the other Party:

- i. make inspections of portions of the Commission System or the Municipal Systems of the requesting Members which may affect the quality of the Water supplied to the Members; and
- ii. perform relevant tests on a Water sample drawn from the Commission System or the Municipal Systems of the requesting Members.

**Section 4.10. Initial Water Delivery; Water Source Transfer Plan Implementation.**

(a) Initial delivery of Water by the Commission to Members at or around the time of completion of the initial Commission System is anticipated to be provided in phases in order to allow the orderly commencement of Water service from Chicago to the Commission and from the Commission to the Members. The Commission will provide a proposed sequence and schedule for the phasing of commencement of Water service to the Members.

(b) The Commission agrees to provide assistance to the Members in connection with the implementation of the Member's water source transfer plan, including (i) provision of Water to the Members' consultant for testing to assist in determining the manner of transition from well water to Water (i.e., the development of a water source transfer plan), and (ii) provision of Water for flushing of Member Municipal Systems (which may not be at a uniform rate of flow) and provision of Water quality information regarding chlorine and orthophosphate levels in the Water, in support of water source transfer from well water as the Member's water source to Water as the Member's water source, upon commencement of initial delivery of Water to the Member.

**Section 4.11. Obligation.**

The obligation of the Commission to sell Water to the Members in the amounts specified in this Article shall be contingent upon the Commission completing and placing into service the Program, pursuant to Section 7.1.

**Section 4.12. Resale By Members.**

(a) As of the Effective Date, in addition to its Retail customers located within its municipal corporate limits, each Member may be providing water supply to customers who (i) purchase water on a Wholesale basis, (ii) are located outside the Member's municipal corporate limits and purchase water from the Member on a Retail basis, and (iii) have emergency interconnection agreements or other similar arrangements with another water supplier. As of the Effective Date, the customers to whom the Members provide water in the categories of items (i), (ii) and (iii) above are as shown on Exhibit C, and those Members are authorized to continue to provide water to those customers under this Agreement.

(b) The sale of Water by Members shall be governed by the following:

- i. Members are authorized to sell Water at Retail within their municipal corporate limits.
- ii. A Member is permitted to sell Water at Retail outside its municipal corporate limits, as long as the amount of Water resold is within the Member's Declared Maximum Day Demand.
- iii. A Member cannot sell Water at Wholesale or Retail without written approval of the other Member within (A) another Member's municipal corporate limits; (B) areas subject to a then-current boundary agreement in which another Member is the designated municipality to which the area would be annexed; or (C) areas within another Member's planning area as established pursuant to Division 12 of Article 11 of the Illinois Municipal Code, 65 ILCS 5/11-12-1 *et seq.* After a municipality has annexed territory, that annexed territory can no longer be considered part of another municipality's planning area, even though that territory may be shown on planning maps and documents of another municipality as part of its planning areas.
- iv. A Member is permitted to sell Water to Wholesale customers within or outside its municipal/corporate limits, as long as the amount of Water resold is within the Member's Declared Maximum Day Demand and written consent of another Member is obtained where required by item (iii) of this Subsection (b).
- v. Customers cannot sell Water to any party or entity that will be a Wholesale customer of the Customer.
- vi. Members are permitted to enter into agreements for emergency interconnections for emergency water supply, which may be on a Wholesale basis; provided, however, that unless expressly authorized by the Board of Commissioners, Members are prohibited from selling water for emergency water supply to non-Members when the Commission has limited or curtailed

the Delivered Quantity to one or more Members pursuant to Sections 4.5 or 4.7 or at times when the Commission establishes controls to minimize peaking factor.

(c) Within sixty (60) days after the Effective Date, each Member shall provide to the Commission copies of any water supply agreements or other agreements affecting its provision or receipt of water (other than the provision of water to its Retail customers within its municipal corporate limits). During the Term, each Member shall provide to the Commission copies of all water supply agreements and any amendments and addenda to each such agreement, entered into between the Member and any Member, or with any non-Member person or entity, within thirty (30) days after execution of such agreements or any amendments or addenda to such agreements.

**Section 4.13. Sale By the Commission to Non-Members.**

(a) The Commission cannot sell water without written approval of the affected Member (a) to Retail customers of any Member; (b) within a Member's municipal corporate limits (other than as expressly permitted in this Agreement); or (c) within areas subject to a then-current boundary agreement in which a Member is the designated municipality to which the area would be annexed; or (d) within areas within a Member's planning area as established pursuant to Division 12 of Article 11 of the Illinois Municipal Code, 65 ILCS 5/11-12-1 *et seq.* The addition of a non-Member Wholesale or Retail Customer of the Commission (other than for purposes of emergency interconnection and emergency water supply) shall require approval by the Board of Commissioners by unanimous vote and approval by each Member's corporate authorities (which need not be by unanimous vote). By approval of this Agreement, the Members agree that the Commission may sell Water to the Village of Lemont as a non-Member Customer in amounts not to exceed those shown as reserved for the Village of Lemont on Exhibit A, but only if the Village of Lemont enters into a written agreement with the Commission no later than November 30, 2024 that (i) includes agreed-upon terms for the Commission's development of the property located at 12550 Bell Road in Lemont and (ii) establishes an option for the Village of Lemont to enter into a water supply agreement to purchase Water from the Commission. This option shall terminate on December 31, 2040. The terms of such water supply agreement shall be acceptable to and approved by the Board of Commissioners and approval by each Member's corporate authorities shall not be required.

(b) The Commission is not prohibited from entering into cooperative arrangements with other suppliers of water for emergency interconnection and emergency water supply purposes, provided that these arrangements do not interfere with the delivery of Water to the Members.

(c) The Commission shall not supply Water except pursuant to a written contract. No agreement to provide Water to Additional Members or Customers shall contain rates, charges or terms lower or more favorable than those provided in this Agreement to Charter Members. All such agreements shall conform to the requirements of and be governed by the IGA.

(d) This Section is qualified by the Commission's legal duty to charge for such service fair and equitable rates. It is the intent of the Commission in entering into this Section to recognize: (i) that the Charter Members, solely, enable the Commission to proceed to construct the Commission System; (ii) the Parties other than the Commission need to be induced to become Charter Members and that this provision is an express inducement; and (iii) that by its essential

design in accordance with good engineering practice, the Commission System must be built in many ways sufficient upon initial completion to serve those who become Charter Members and will pay for the Commission System from the start of acquisition and construction with limited additional capacity for service to the Customer as described in Subsection (a).

## **ARTICLE 5 MEASUREMENT**

### **Section 5.1. Measurement Basis for Delivered Quantity.**

Delivered Quantity to each Member shall be based on readings of the Devices or on estimates made pursuant to Section 5.5. The readings of such Devices for the purpose of computing the Member's share of certain costs shall be recorded by the Commission as of the last day of each calendar month.

### **Section 5.2. Water Delivery Structures.**

(a) The Commission shall furnish, install, own, operate, maintain, repair and replace, at its own expense (except where otherwise provided in this Agreement), the Water Delivery Structures, Points of Delivery and Connecting Mains, including (a) the necessary equipment and Devices of a type meeting the standards of the American Water Works Association for measuring properly the Delivered Quantity under this Agreement, and (b) such structures as the Commission shall deem necessary to house such equipment and Devices. Such Devices and Water Delivery Structures and Connecting Mains so installed and constructed shall remain the property of the Commission.

(b) Such Water Delivery Structures, Points of Delivery and Connecting Mains shall be located at sites selected and provided by each Member, respectively, for Water delivered to it. Such sites shall be subject to review and approval by the Commission, which approval shall not be unreasonably withheld. Each Member shall grant to the Commission a property interest in each respective site sufficient to enable the Commission to install, use, operate and maintain such Water Delivery Structures, Points of Delivery and Connecting Mains during the Term of this Agreement. The Commission shall have access to such Water Delivery Structures, Points of Delivery and Connecting Mains for examination and inspection at all reasonable times, and the reading for billing purposes, calibration and adjustment thereof shall be done only by the employees or agents of the Commission who may be accompanied by employees or agents of the Member. Access by the Member to such Water Delivery Structures, Points of Delivery and Devices, and Connecting Mains shall be only after notice to the Commission of a need for access provided not less than two Business Days prior to the date and time for which access is requested and only when accompanied by a Commission employee or agent.

### **Section 5.3. Check Meters.**

A Member may, at its option and its own expense, install and operate a check meter to check each Device installed by the Commission, but the measurement of Water for the purpose of this Agreement shall be solely by the Commission's Devices, except in the cases specifically provided in this Agreement to the contrary. All such check meters shall meet the standards of the American Water Works Association for measuring properly the Delivered Quantity and the margin of error identified by the manufacturer of the check meters shall not be greater than the margin of error of the Devices. All check meters shall be subject to inspection and examination by any

employee or agent of the Commission at all reasonable times, but the calibration and adjustment thereof shall be made only by such Member (by a company qualified in the calibration of meters of the size and type involved, which company has been approved by the Commission), except during any period when a check meter may be used under the provisions of this Agreement for measuring the Delivered Quantity, in which case the calibration and adjustment thereof shall be made by the Commission with like effects as if such check meter had been furnished and installed by the Commission.

**Section 5.4. Calibration.**

At least once in each Fiscal Year, the Commission shall calibrate its Devices measuring Water delivered to a Member at the Commission's expense, which shall be performed following reasonable notice to the Member and in the presence of a representative of the Member if such Member notifies the Commission that it wishes to have a representative present. The Commission and such Member (if present) shall jointly observe any necessary adjustment so that it will provide accurate readings. If any check meters have been installed, at least once in each Fiscal Year, such meters shall be calibrated by the Member at the Member's expense following reasonable notice to the Commission in the presence of a representative of the Commission and the Commission and such Member shall jointly observe any necessary adjustment. Annual calibration of Devices and check meters shall be performed during regular business hours.

**Section 5.5. Variation Between Meters; Reconciliation.**

(a) In addition to the requirements of Sections 5.3 and 5.4, if the Commission or any Member at any time observes a variation between a Device and a check meter (if any such check meter has been installed) or any other evidence of Device or check meter malfunction, such Party shall promptly notify the other Party. If the Commission discovers such variation, then the Commission shall notify the affected Member, and if a Member discovers such variation, then that Member shall notify the Commission. The Commission and such Member shall then cooperate to procure an immediate calibration test of and adjustment to their respective Device or check meter so that it will provide accurate readings and shall jointly observe any such adjustment. Notice of all tests of Devices and check meters (which tests shall be conducted during regular business hours) shall be provided by the owner of the Device or check meter being tested so that the Commission or the affected Member, as applicable, may conveniently have a representative present. If said representative is not present at the time set in such notice, calibration and adjustment may, notwithstanding any other provision of this Section, proceed in the absence of such representative.

(b) If, upon any test, the percentage of inaccuracy of any Device is found to be registering outside of the margin of error identified by the manufacturer for that Device, the Delivered Quantity shall be based upon readings of the check meter so long as it has been calibrated and reading within the margin of error within the previous twelve (12) months. If the Member does not have a check meter or the check meter has not been calibrated and is not reading within the margin of error of the manufacturer, then the Delivered Quantity cannot be determined and must be estimated pursuant to subsection (c) below.

(c) If, for any reason, any Devices and check meters are out of service or out of repair so that the Delivered Quantity cannot be ascertained or computed from the reading thereof based on the requirements of (b) above, the Delivered Quantity shall be estimated (i) by correcting the error if the percentage of the error is ascertainable by calibration tests or mathematical calculations or



(ii) if the error is not ascertainable by calibration tests or mathematical calculations, by estimating the Delivered Quantity by considering deliveries during preceding periods under similar conditions when the Device or Devices were registering accurately, or any other reasonable manner determined by the Commission.

**Section 5.6. Records.**

(a) For the purpose of this Agreement, the official record of readings of the Devices shall be created and maintained by the Commission and shall include recordings of digital or electronic readings by Commission equipment or manual readings by the employees or agents of the Commission who take the readings if performed manually. The Commission will provide readings to Members on the monthly invoice, which shall be the official record provided to the Members.

(b) The Commission will share with each Member the readings of the Devices to that Member's Water Delivery Structures and Points of Delivery and each Member with a check meter will share the readings of each such check meter with the Commission. Where possible, such sharing of readings will be by a method that allows real-time access to the readings.

**Section 5.7. Removal of Commission Water Delivery Structures.**

If the Devices and Water Delivery Structures will no longer be used for the delivery of Water by the Commission to the Member, within one (1) year after the making of such determination, the Commission, at the Member's expense, shall remove all Devices and Water Delivery Structures to which such determination applies and restore the property. If the Commission fails to remove the Devices and Water Delivery Structures and restore the property, the Member affected may elect to do so at its own expense or to take title to such Water Delivery Structures if not inconsistent with the Bond Resolution and Bond Indenture.

**Section 5.8. Unit of Measurement.**

The unit of measurement for Water delivered shall be gallons of water, U.S. Standard Liquid Measure, and all Devices shall be so calibrated, unless the Commission and the Member otherwise agree. In the event that it should become necessary or desirable to use other units of measurement, the basis of conversion shall be that 7.48052 gallons is equal to one (1) cubic foot.

**ARTICLE 6  
PAYMENTS**

**Section 6.1. Member Payments.**

Each Member agrees to pay, at the times, on the terms and subject to the conditions set forth in this Article, its share of the Commission Costs which will be the total of the following:

(a) Costs for Water supply purchased by the Commission for Water delivered to the Member as determined in accordance with Section 6.3;

(b) The Member's share of Operation and Maintenance Costs as determined in accordance with Section 6.4;

(c) The Member's share of Reserve Costs as determined in accordance with Section 6.5;

(d) The Member's share of Commission Administration Costs as determined in accordance with Section 6.6;

(e) The Member's share of Capital Costs, Debt Service and Costs of Financing as determined in accordance with Section 6.7;

(f) The Member's share of Default Costs as determined in accordance with Section 6.8; and

(g) The Member's costs for less than Full Water Requirements as determined in accordance with Section 6.9.

Regardless of any other provisions of this Agreement, the payments due under this Agreement, together with the payments due under the agreements with all other Members, shall at all times be sufficient (together with the other amounts available under and established by any Bond Resolution or Bond Indenture) to make all payments provided in any Bond Resolution or Bond Indenture from the revenue fund or account to the operation and maintenance fund or account, the debt service fund or account, the debt service reserve fund or account, the depreciation fund or account required by the RWC Act, the junior lien obligation debt service fund or account and the general or surplus fund or account at the times and in the amounts provided in the Bond Resolution or Bond Indenture so that there shall be at no time any deficiency in any of those payments.

**Section 6.2. Obligation to Pay.**

The obligation to make any and all payments under this Agreement shall begin immediately after the Effective Date.

**Section 6.3. Member's Share of Purchased Water Costs.**

(a) Costs for Water supply provided by the Commission shall be based on a price per unit of Water established by the Board of Commissioners multiplied by the Delivered Quantities. The price per unit shall be established based on the anticipated price per unit of Water to be purchased by the Commission from Chicago pursuant to the Chicago Water Supply Agreement (or from another supplier pursuant to the applicable terms of such purchase, if not purchased from Chicago) with adjustments to allow for sufficient funds to cover cash flow required to address the cost-of-service rate true-up process between the Commission and Chicago (or other supplier). The Board of Commissioners shall adopt a policy for the use of such funds only for the purpose of paying purchased Water costs.

(b) Prior to delivery of Water to the Members for use by customers of the Members, the Commission may purchase Water for testing and construction purposes from Chicago pursuant to the Chicago Water Supply Agreement. Water purchased for these purposes will be billed by Chicago at its fixed uniform rate rather than a cost-of-service rate. Purchased Water costs for Water supply provided by the Commission to the Members for these purposes for their Municipal Systems will be charged to the Members for the Delivered Quantity at not less than the fixed uniform rate charged by Chicago.

(c) All Members will be charged the same rate or price per unit for purchased Water costs.

**Section 6.4. Member's Share of Operation and Maintenance Costs.**

(a) Operation and Maintenance Costs for Water supply provided by the Commission shall be based on a price per unit of Water established by the Board of Commissioners multiplied by the Delivered Quantities. The price per unit shall be established based on the total anticipated costs for operation and maintenance of the Commission System for the Fiscal Year divided by the sum of the anticipated Delivered Quantities for each of the Members and Customers, if any, for that Fiscal Year. The anticipated Delivered Quantities shall be determined based on the Projected Average Day Demands and Projected Maximum Day Demands for each of the Members. Operations and maintenance shall include: (i) repairs, which are restoration work for when an asset of the Commission System breaks, is damaged, or stops working; and (ii) routine activities and/or corrective or preventive repair done on an asset of the Commission System to prevent damage and prolong the life expectancy of the asset; and (iii) all activities other than Commission administration, the Program, an Expansion, a Minor Upgrade or an Improvement. Such costs shall also include an operating reserve requirement to provide sufficient liquidity to meet the Commission's costs of operation and maintenance of the Commission System. To the extent that such revenues (and other available revenues of the Commission) are not sufficient to pay all such costs, the Board of Commissioners shall establish cost-sharing charges for all Members in an amount sufficient to provide the funds required by the Commission Budget, to be apportioned according to the estimated or actual metered Delivered Quantities for the Member for such year. For periods before the Commission System begins to operate, the 2030 Projected Average Day Demand of the Member shall be used in lieu of the Delivered Quantity.

(b) Prior to delivery of Water to the Members for use by customers of the Members, when the Commission purchases Water for testing and construction purposes from Chicago pursuant to the Chicago Water Supply Agreement and delivers such Water to the Members for such purposes, each Member shall pay the related Operation and Maintenance Costs. These shall be charged to the Members for the Delivered Quantity for such purposes at the rate set by the Board of Commissioners.

(c) All Members will be charged the same rate or price per unit for Operation and Maintenance Costs.

**Section 6.5. Member's Share of Reserve Costs.**

(a) Each Member's share of the costs to establish and maintain a reserve for depreciation of the Commission System shall be paid as a portion of the charges for the provision of Water supply. For each of the years 2025 through 2029, both inclusive, and any additional years thereafter until the Commission System is providing Water to Members, Members will be charged an amount sufficient to generate an initial reserve for depreciation by the Targeted Water Delivery Date equal to twenty-five (25%) percent of the 2030 estimated operating budget, determined by the Board of Commissioners based on the Member's 2050 Declared Maximum Day Demand multiplied by the annual reserve payment amount per MGD. Payments for a reserve for depreciation shall continue thereafter as required by the Bond Resolutions and Bond Indentures, as approved by the Board of Commissioners.

(b) Members will pay amounts for such other reserves as may be required by the Bond Resolutions and Bond Indentures, or may be determined by the Board of Commissioners to be

established as good management practices, in accordance with rates, charges and reserve policies established by the Board of Commissioners.

**Section 6.6. Member's Share of Commission Administration Costs.**

Costs of Commission administration shall be paid by the Members in equal shares, determined by dividing the total Commission Administration Costs by the number of Members. Commission Administration Costs will be determined by the Board of Commissioners but generally will include (i) that portion of the Capital Costs, Debt Service and Costs of Financing for Commission administrative offices and facilities; (ii) operation and maintenance of Commission administrative offices and facilities including Commission staffing (other than water operations and maintenance staff), utilities, insurance, office equipment and supplies, training and conferences, custodial services, and other administrative costs; and (iii) administrative contractual services (such as financial services, legal services, outreach/engagement services, government advocacy services); provided, however, that for costs incurred by the Commission for government advocacy services from and after the Effective Date until completion of the Program, Commission Administration Costs shall include fifty percent (50%) of such costs paid by the Commission. The total Commission Administration Costs to be shared by the Members may be reduced by amounts paid by non-Member customers, if any.

**Section 6.7. Member's Share of Capital Costs, Debt Service and Costs of Financing.**

(a) Funding of Capital Costs. The Parties anticipate that the Capital Costs of (i) the Program will be paid through a variety of funding sources, the majority of which will consist of the issuance or assumption of debt by the Commission, which may include, without limitation, Bonds from various programs that are available from time to time, such as the Water Infrastructure Finance and Innovation Act (WIFIA) loan program and the State of Illinois Public Water Supply Loan Program, which may be in amounts up to the maximum amount permitted by law, and (ii) future Expansions, Minor Upgrades and Improvements will be paid through the issuance of debt by the Commission or through other sources of funds available to the Commission.

(b) Member Responsibility for Capital Costs, Debt Service and Costs of Financing.

- i. Each Member shall pay for a portion of the Capital Costs, Debt Service and Costs of Financing, determined as follows:
  - A. The Member's proportionate share of the Capital Costs Primary for which all Members are responsible. Each Member's proportionate share shall be determined by calculating the ratio of each Member's Declared Maximum Day Demand to the sum of all Members' Declared Maximum Day Demand (which is the "Demand Ratio") and multiplying the Demand Ratio by the amount of the Capital Costs Primary;
  - B. plus any Capital Costs Non-Primary for which that Member is individually responsible, and shall be determined based on the costs of planning, developing, designing, constructing and acquiring the Member's non-primary Water Delivery Structures and Special Benefit Improvements (if any);

- C. minus the amount of any credits for a Member or contribution of costs advanced by a Member that are recognized as credits for that Member. Credits for Advanced Construction Costs and Advanced Development Costs for Joliet and a credit for Romeoville are provided for and recognized in this Agreement in connection with the Program. Any other credits must be approved by the Commission and the amounts paid to the Commission prior to the issuance of Bonds by the Commission for that portion of the Capital Costs.

The result of item (A) plus item (B) minus item (C) for each Member is the “Member’s Adjusted Share”.

- ii. Each “Member’s Adjusted Percentage Share” shall be determined by dividing the Member’s Adjusted Share by the sum of all Members’ Adjusted Shares.
- iii. Each Member shall pay its “Member’s Payment Share” for the Program, Expansion, Minor Upgrade or Improvement, as applicable, which shall be calculated by multiplying that Member’s Adjusted Percentage Share by the total of the Capital Costs, Debt Service and Costs of Financing that are due and payable by the Commission in each Fiscal Year for the Program, Expansion, Minor Upgrade or Improvement.
- iv. During the performance of the Program and until the Capital Costs, Debt Service and Costs of Financing for the Program are paid in full, the value used for a Member’s Declared Maximum Day Demand shall be the Member’s Declared 2050 Maximum Day Demand until a new Declared Maximum Day Demand is established pursuant to Section 4.2.

(c) Program Budget, Expansion Budget and Improvement Budget Capital Costs.

- i. For the initial construction of the Commission System through the Program, or for Expansions, Minor Upgrades or Improvements, the Parties acknowledge and agree that the Capital Costs Primary, Capital Costs Non-Primary and any credits will not be finalized until the applicable construction is complete, at which time the final Capital Costs, Debt Service and Costs of Financing of the Program, or for each Expansion, Minor Upgrade or Improvement, as applicable, will be determined. Prior to the completion of the Program, Expansion, Minor Upgrade or Improvement, as applicable, the amount of the Capital Costs Primary and Capital Costs Non-Primary and any Member credits will be adjusted from time to time and the Member’s Adjusted Share and Adjusted Percentage Share will be recalculated pursuant to the formula in Subsection (b) of this Section 6.7. Any grants received by the Commission, or by Joliet on behalf of the Commission, will be applied to reduce the total amount of Capital Costs Primary upon expenditure of the grant funds by the Commission.
- ii. Prior to final completion of the Program, Expansion, Minor Upgrade or Improvement and the establishment of the Program’s, Expansion’s, Minor

Upgrade's or Improvement's final Capital Costs Primary and Capital Costs Non-Primary, the amount of Capital Costs Primary and Capital Costs Non-Primary due in each Fiscal Year shall be determined in the establishment of an annual Program Budget, Expansion Budget or Commission Budget as described in Section 6.15 and the Commission shall determine the amount of each Member's Payment Share that will be due and payable in that Fiscal Year. Amounts due will take into account any credits due to a Member as provided in this Section to determine the Member's Adjusted Share and Adjusted Percentage Share.

(d) Final Capital Costs. When final Capital Costs Primary and Capital Costs Non-Primary and any applicable credits are established for the Program or an Expansion, Minor Upgrade or Improvement, the final amounts of the Members' Adjusted Shares, Members' Adjusted Percentage Shares and Members' Payment Shares will be established through the approval of the final Program Budget, Expansion Budget or Commission Budget. If this process demonstrates that a Member has underpaid or overpaid amounts toward the Capital Costs Primary or Capital Costs Non-Primary for the Program, Expansion or Improvement, as applicable, then any amount that was underpaid will be repaid by the Member in twenty-four (24) equal monthly installments and any amount that was overpaid will be credited to amounts owed by the Member under this Agreement in twenty-four (24) equal monthly installments. After the final Program Budget, Expansion Budget or Commission Budget is approved as provided in Section 6.15, the payments by Members of their Member's Payment Shares shall be included in the Commission Budget. Any adjustments to amounts owed due to actions such as the refinancing of a portion of the Bonds for the Program, Expansion, Minor Upgrade or Improvement shall be determined through the Commission Budget.

(e) Duration of Payments. The Members shall pay their Member's Payment Shares during the period of time for repayment of the Bonds for the financing of the Program, Expansion, Minor Upgrade or Improvement, as applicable. The Members agree to pay their Member's Payment Shares for each Fiscal Year in monthly installments. For the Program, the first payment of the Member's Payment Shares shall be due following the Effective Date.

(f) Credit to Romeoville. The Commission will provide a credit to Romeoville in an amount determined pursuant to Exhibit D to represent a portion of the savings resulting from Romeoville's relocation of its primary Water Delivery Structure to a different and more cost-effective location that will be submitted by Romeoville to the Commission pursuant to Subsection 4.8(a). This credit will be applied to Romeoville's share of the Capital Costs Primary and Capital Costs Non-Primary as described in Subsection (b) of this Section 6.7. Romeoville's credit will be determined based on the requirements of Exhibit D.

(g) Credit to Joliet. The Commission will reimburse Joliet for Joliet's Advanced Development Costs and Advanced Construction Costs. Such reimbursement shall be in the form of a credit to be applied to the total amount of Joliet's shares of the Capital Costs Primary and Capital Costs Non-Primary for the Program as described in Subsection (b) of this Section 6.7.

- i. Advanced Development Costs and Advanced Construction Costs will also include costs related to issuance of bonds and the taking of loans (including,

without limitation, the Water Infrastructure Finance and Innovation Act (WIFIA) loan program and the State of Illinois Public Water Supply Loan Program) to pay for development costs and construction costs; these will include, without limitation, loan application fees and closing costs, rating agency fees, financial advisor and bond counsel costs, and trustee fees.

- ii. All Advanced Development Costs and Advanced Construction Costs will be treated as and included in the Capital Costs Primary and Capital Costs Non-Primary (as applicable) for the Program and shall be allocated to and paid by all Members (including Joliet) in shares as provided in this Section 6.7, and shall be treated as a credit to Joliet on Joliet's share of the Capital Costs Primary and Capital Costs Non-Primary for the Program that are to be paid by Members as provided in Subsection (b) of this Section 6.7.
- iii. The Parties agree that the Program Budget will include an estimated amount of Advanced Development Costs and Advanced Construction Costs already incurred and to be incurred by Joliet for the Program during the entire period of the performance and completion of the Program. This estimate will be updated annually as part of the Program Budget process established in Section 6.15. At the time of determination of the final Capital Costs Primary and Capital Costs Non-Primary, Joliet will provide invoices and summaries of items (and other information required by the Board of Commissioners) for which it has advanced funds as part of the Advanced Development Costs and Advanced Construction Costs, which will be made available to the Board of Commissioners for Member review and audit.

(h) Payment for Special Benefit Improvements. Improvements to the Commission System that only improve Water service to certain Members, and that do not increase Capacity of the Commission System, shall be referred to as Special Benefit Improvements and shall be paid for by those certain Members following approval by the Commission. Such payments will include all Capital Costs, Debt Service and Costs of Financing for the Special Benefit Improvements as well as any other related costs, such as Operation and Maintenance Costs, that the Commission may require those certain Members to pay. The Commission will not unreasonably withhold approval of such Special Benefit Improvements.

(i) Reassignment of Existing Capacity. If a reassignment of Capacity is approved pursuant to Section 4.2 without any change in the Capacity and without incurring any additional Capital Costs, Debt Service and Costs of Financing being incurred by the Commission, the Members' Adjusted Share and Adjusted Percentage Share shall be recalculated based on the new Demand Ratio determined based on the reassigned Declared Maximum Day Demands of the Members using the formula in Subsection (b)(i) of this Section.

- i. The recalculated Member's Adjusted Share for each Member shall be applied to the Capital Costs, Debt Service and Costs of Financing for the total Capacity to determine the new amounts of each Member's Adjusted Percentage Share for that total Capacity. In the case of Capacity created during the Program, the recalculated Demand Ratio shall be applied to the final Capital Costs Primary

to determine the new amounts of each Member's Adjusted Share and Adjusted Percentage Share and an updated schedule of amounts due shall be included in the Program Budget or the Commission Budget, as applicable pursuant to Section 6.15.

- ii. These new amounts of Member's Payment Shares due from the Members based on the Members' Adjusted Percentage Share will be compared to the previous amounts paid by each Member to determine whether the Member has underpaid or overpaid for its reallocated amount of the Capacity. If a Member has underpaid, the Member will be required to pay the amount underpaid to the Commission within the time period agreed upon by the Commission and the affected Members. If a Member has overpaid, the Member may request (A) a payment of that amount be made to it within thirty (30) days after the receipt of the underpayment amounts from other Members or (B) that the amount it has overpaid be applied in equal installments to the remaining amount of any outstanding Capital Costs, Debt Service and Costs of Financing that it has not yet paid to the Commission.

(j) Reassignment of Increased Capacity. If a reassignment of Capacity is approved pursuant to Section 4.2 as a result of an increase in the Capacity and a change in the Demand Ratio of one or more Members, the Member's Adjusted Share and Adjusted Percentage Share shall be recalculated based on the new Demand Ratio determined based on the reassigned Declared Maximum Day Demands of the Members using the formula in Subsection (b)(i) of this Section.

- i. The recalculated Member's Adjusted Share for each Member shall be applied to the Capital Costs, Debt Service and Costs of Financing for the total expanded Capacity to determine the new amounts of each Member's Adjusted Percentage Share for that total expanded Capacity. The new Demand Ratio shall be applied to the sum of the final Capital Costs Primary for the Program and any Improvements and Minor Upgrades plus any amounts of Capital Costs Primary for the Expansion to determine the new amounts of each Member's Adjusted Share and Adjusted Percentage Share and an updated schedule of amounts of Members' Payment Shares due shall be included in the Expansion Budget pursuant to Section 6.15.
- ii. These new amounts of Members' Payment Shares due from the Members will be compared to the previous amounts of Members' Payment Shares paid by each Member associated with the initial Commission System and any Improvements and Minor Upgrades plus any prior Expansion that resulted in increased Capacity to determine whether the Member has underpaid or overpaid for its reallocated amount of the Capacity. If a Member has underpaid, the Member will be required to pay the amount underpaid to the Commission within thirty (30) days after completion of the Expansion unless otherwise agreed by the Commission and the Members that will be receiving funds due to an overpayment resulting from the Expansion. If a Member has overpaid, the Member may request (A) a payment of that amount be made to it within thirty (30) days after the receipt of the underpayment amounts from other Members



or (B) that the amount it has overpaid be applied in equal installments to the remaining amount of any outstanding Capital Costs, Debt Service and Costs of Financing that it has not yet paid to the Commission.

- iii. If a Member determines not to increase its Declared Maximum Day Demand as a result of the Expansion that will result in increased Capacity, then the Member will not be assigned a proportionate share of the sum of the Capital Costs, Debt Service and Costs of Financing for that total Capacity and will not be entitled to any payment resulting from the reallocation of Capacity based on its Declared Maximum Day Demand.
- iv. If a Member chooses not to participate in an Expansion and requires additional Capacity in the future and additional Capacity from an Expansion is available, that Member will be required to follow the reassignment process in Subsection 4.2(b) and make reimbursement payments for the Capital Costs, Debt Service and Costs of Financing of the Expansion's design and construction to account for its appropriate share of such amounts, as determined by the Board of Commissioners.

#### **Section 6.8. Member's Share of Default Costs.**

(a) If any Member or Customer defaults on the payment to the Commission of its required share of Commission Costs, including any part of its share of Default Costs due pursuant to this Section, each Member agrees to pay a share of the Default Costs. That share of the Default Costs for the Member shall be in the same proportion as such Member's share of the Commission Costs for the month prior to the month of the default is to the sum of the shares of Commission Costs in that month of all Members and Customers (if any) who are obligated to make payments under this Section and are not in default; any credits to Members related to reassignment of Capacity under Subsections 6.7(i) and (j) shall not be used in determining either the ratio or the Members' shares. Each Member's share of defaulted Commission Costs, or such defaulted payment of shares, as the case may be, shall be due and payable twenty-one (21) days after the Commission's written demand therefor. The demand shall include the Commission's calculations of the amount due from the Member hereunder. If and when the defaulting Member makes a payment to the Commission of a defaulted amount or interest thereon for which the Members have made a payment to the Commission under this Section, the Commission will pay to each Member its proportionate share of such amount, including any such interest.

(b) In connection with Crest Hill's provision of water service to Stateville Correctional Center (including the Level 1 Stateville Correctional Center, the Northern Reception and Classification Center, the Stateville Minimum Security Unit and the District 5 facility of the Illinois State Police), Crest Hill agrees to work with the Commission to negotiate with the State of Illinois terms under which the State of Illinois will (i) pay a rate that allows Crest Hill to retain funds in a reserve fund maintained by Crest Hill and/or (ii) prepay into an escrow account held by Crest Hill a security deposit or other amount sufficient to cover amounts due to Crest Hill from the State of Illinois. If these payments and funds are not sufficient to enable Crest Hill to meet its payment obligations to the Commission, and Crest Hill is unable to pay its full share of Commission Costs due to a failure of the State of Illinois to pay Crest Hill for Water delivered by Crest Hill to Stateville Correctional Center, the Commission will use a portion of its reserve fund

for Operation and Maintenance Costs to cover the failure of Crest Hill to pay to the Commission on a timely basis the portion of Crest Hill's Commission Costs attributable to delivery of Water to Stateville Correctional Center due to the failure of the State of Illinois to pay Crest Hill for Water on a timely basis. Use by the Commission of amounts from the reserve fund for Operation and Maintenance Costs for this purpose does not excuse Crest Hill from its obligation to make all required payments with interest as established in this Agreement.

**Section 6.9. Member's Costs for Less Than Full Water Requirements.**

If a Member's Delivered Quantity for any month is less than its Full Water Requirements for that month and the Commission was willing and able to deliver to such Member its Full Water Requirements at all times during that month, such Member's obligations for any payment due under this Agreement shall be based on Full Water Requirements, unless the Board of Commissioners has approved a waiver of this requirement pursuant to Section 4.3(d).

**Section 6.10. Bills and Due Date.**

The Commission shall notify each Member of such Member's share of Commission Costs for the month on or before the tenth day of the following month. The Member's share of Commission Costs for a month shall be due and payable and must be received at the offices of the Commission on or before the tenth day of the month following the month of the Commission's notification.

**Section 6.11. Disputed Payments.**

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

Upon receipt of notification of a dispute, representatives of the Commission shall meet promptly with representatives of the Member to resolve such dispute. No adjustment or relief on account of any disputed charges shall be made unless disputed charges are the subject of such notice received in the office of the Commission on or before the applicable due date or within a reasonable period from the time the Member knew, or should have known, of the facts giving rise to the dispute.

In the event that it is determined that the Member shall have overpaid, it shall receive a credit on future payments in the categories of costs in which the overpayment occurred.

**Section 6.12. Overdue Payments and Remedies; Security Deposit.**

If a Member shall fail to make any payment required under this Agreement on or before its due date pursuant to Section 6.10, such Member shall be in default and the remedies described in this Section and Article 9 are available to the Commission in addition to the remedies provided in the IGA and all other rights and remedies at law or in equity available to the Commission for breach of any of the provisions of this Agreement.

(a) Interest on the amount of such payment shall accrue during the period of nonpayment. Interest shall accrue at the maximum legal rate on taxable bonds under Section 2 of the Bond

Authorization Act, 30 ILCS 305/2, as amended from time to time, from the date such payment becomes due pursuant to Section 6.10 until paid in full with interest as specified in this Agreement.

(b) The defaulting Member shall pay all costs and expenses incurred by the Commission as a result of such an overdue payment.

(c) If a Member is in default due to non-payment and the default is not cured within thirty (30) days after the due date of the defaulted payment, the Commission may, at its option, require such Member to deposit as security for the payment of such Member's obligations under this Agreement a reasonable amount as determined by the Commission. The security deposit or any part thereof may, at the Commission's discretion, be applied to any subsequent default in any payments due hereunder by the Member. If so applied, the Member shall immediately provide funds to restore the security deposit to the amount required by the Commission. At the earliest of (i) the end of the Term of this Agreement, (ii) a term of two (2) years after the curing of the most recent default by the Member, or (iii) at any such time that the Commission may at its sole discretion determine, any security deposit shall be returned to the Member if the Member has performed all its obligations under this Agreement. Any such security deposits shall be kept in a separate interest-bearing fund or account and any interest earned thereon shall be the property of the Commission.

(d) In addition to the remedies involving suspension of a Member's membership in the Commission as provided in Section 7.3 of the IGA, in the event such payment is not made within sixty (60) days from the date such payment becomes due, the Commission may, at its option and in its discretion, decline to provide Water and suspend or discontinue delivery of Water to the Member until the amount due to the Commission is paid in full with interest as provided in this Agreement. Not less than twenty (20) days prior to commencement of court proceedings for suspension or discontinuance of delivery of Water, the Commission shall notify the Member of its intention to file such proceedings to decline to provide Water and suspend or discontinue delivery of Water and shall provide the Member an opportunity for a hearing prior to any suspension or discontinuance of delivery of Water. Following the hearing, the Commission shall determine whether to present the matter to the state court with jurisdiction and obtain an order of court authorizing suspension or discontinuance of Water service to the Member. No suspension or discontinuance shall occur until such an order is obtained. If the Commission suspends or discontinues the delivery of Water under such circumstances, the Member shall, nevertheless, continue to be liable to pay all charges herein provided for.

(e) The Member's compliance with the Commission's requirement to post a security deposit shall be a condition precedent to the restoration of Water service to such Member, if suspended or discontinued by reason of any default due to non-payment.

(f) Exercise of any remedy under this Section by the Commission shall not preclude the exercise of any other remedies provided in this Agreement or the IGA or available under applicable law, whether at law or in equity.

### **Section 6.13. Sources of Payments.**

All payments required to be made by each Member under this Agreement shall be made from revenues to be derived by such Member from the operation of its Municipal System. This

Agreement shall not constitute an indebtedness of any Member within the meaning of any statutory or constitutional limitation but shall be considered an obligation against the revenues derived by each such Municipal System. The Members are not prohibited by this Agreement from using other available funds to make the payments required by this Agreement. The use of other available funds by a Member for payments required to be made under this Agreement shall in no way obligate the Member to continue the use of such other available funds in the future, nor obligate any of the Member's funds other than revenues derived by such Member from the operation of its Municipal System.

**Section 6.14. Nature of Payment Obligation.**

Payments to be made under this Agreement shall be an operation and maintenance expense of each Municipal System. Each Member is obligated to pay for all required Commission Costs without setoff or counterclaim and irrespective of whether such supply of Water is ever furnished, made available or delivered to the Member or whether the Program or the Commission System as contemplated by this Agreement is completed, operable or operating and regardless of any suspension, interruption, interference, reduction or curtailment of the supply of Water from the Commission System. The rights of the Member in the event of failure by the Commission to perform its obligations under this Agreement are governed by Article 9.

**Section 6.15. Budgets, Limitation, Notice to Members and Rates.**

(a) Commission Budget. The Commission shall prepare and adopt a Commission Budget for each Fiscal Year. Not less than sixty (60) days prior to the beginning of each Fiscal Year (other than the first Fiscal Year after the Commission is established, which is a partial Fiscal Year), the Commission shall prepare and send to the Members a tentative Commission Budget. The Commission Budget for each Fiscal Year shall include an estimate of each of the elements of the Commission Costs to be paid by the Members and Customers (if any) in that Fiscal Year and an estimate of each of the Commission Costs to be paid by the Members and Customers (if any) for the following Fiscal Year. If the Commission fails to adopt a Commission Budget for a Fiscal Year, the Commission Budget for the prior Fiscal Year shall be used until a new Commission Budget is adopted.

(b) Program Budget. During the Program and until the costs for the Program have been finalized and a final Program Budget is approved, the Commission shall also prepare and adopt a Program Budget on an annual basis. Not less than ninety (90) days prior to the beginning of each Fiscal Year (other than the first Fiscal Year after the Commission is established, which is a partial Fiscal Year), the Commission shall prepare and send to the Members a tentative Program Budget. Each such Program Budget shall include all Capital Costs, Debt Service and Costs of Financing of the Program. The Program Budget shall be based on estimated costs of each element and component of the Program until such time as contract costs or actual costs of an element or component become available, at which time the contract cost amounts or actual cost amounts shall be substituted for the estimated cost amounts for that element or component. For the Fiscal Years following final completion of the Program and adoption of the final Program Budget, the Members' Payment Shares shall be included in the Commission Budget. Each Program Budget or Commission Budget shall include an estimate of the Members' Adjusted Shares, Members' Adjusted Percentage Shares and Members' Payment Shares.

(c) Expansion Budget. If the Commission determines that an Expansion of the Commission System is necessary from time to time, not less than ninety (90) days prior to commencement of such Expansion, the Commission shall prepare and send to the Members a proposed Expansion Budget. Thereafter, the Commission shall prepare and adopt a proposed Expansion Budget on an annual basis. Each such Expansion Budget shall include all Capital Costs, Debt Service and Costs of Financing for the Expansion. The Expansion Budget shall be based on estimated costs of each element and component of the Expansion until such time as contract costs or actual costs of an element or component become available, at which time the contract cost amounts or actual cost amounts shall be substituted for the estimated cost amounts for that element or component. For the Fiscal Years following final completion of the Expansion and adoption of the final Expansion Budget, as applicable, the Members' Payment Shares shall be included in the Commission Budget. Each Expansion Budget or Commission Budget shall include an estimate of the Members' Adjusted Shares, Members' Adjusted Percentage Shares and Members' Payment Shares.

(d) Adoption of Commission Budget. The Commission will hold a meeting to present and discuss the Commission Budget, at which comments of the Members may be presented. The Commission shall give the Members not less than fourteen (14) days' notice of such meeting. In addition, the Commission shall hold any public hearing on the Commission Budget as is required by law, and approve its annual Commission Budget within the time required by law. The Commission shall only bill its Members such amounts as shall be required to pay Commission Costs and to provide for its Members a reliable water system as required by any Bond Resolution or Bond Indenture.

## **ARTICLE 7 COMMISSION COVENANTS**

### **Section 7.1. Construction of the Commission System and Supply of Water.**

(a) The Commission shall proceed promptly with the performance and construction of the Program necessary to the performance of its obligations under this Agreement. The Commission will make a diligent effort to have its facilities completed to the Water Delivery Structures and Points of Delivery so as to furnish Water to the Charter Members by the Targeted Water Delivery Date unless otherwise agreed by unanimous vote of the Board of Commissioners, but the Commission does not hereby guarantee delivery by such date. The Commission shall not be liable to any Member for any damages occasioned by delay in the commencement of such service to any Member, and all payments provided for under this Agreement remain due and payable in accordance with its terms regardless of any such delay. Each of the Members hereby acknowledges its unconditional obligation to pay and does hereby covenant to pay all amounts due and payable under Article 6 regardless of any such delay and regardless of whether all or any part of its Full Water Requirements are ever delivered under this Agreement.

(b) The Commission agrees to retain the City of Joliet as the Program Manager for the completion of the Program pursuant to a Program Management Agreement between the Commission and the City of Joliet.

(c) The Commission shall use diligent efforts to obtain the necessary permits and contracts for labor and material and to borrow funds and issue its Bonds for acquiring and constructing the Commission System by the Targeted Water Delivery Date.

(d) Prior to the Targeted Water Delivery Date, the Commission shall furnish to each Member such Water, if available, as is needed for (i) the construction or testing of the Members' improvements at the points of connection to each Municipal System and (ii) the obtaining of any permits required in connection with the construction or operation of the Members' improvements at the points of connection to such Municipal System.

(e) After Water is first tendered for delivery to a Member at any Point of Delivery, the Commission shall, subject to the other terms and conditions of this Agreement, continually hold itself ready, willing and able to supply Water to such Member.

(f) No portion of the Program shall be abandoned without the consent of those Charter Members who would receive no Water from the Commission because of such an abandonment.

### **Section 7.2. Commission System Insurance.**

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

### **Section 7.3. Covenants Regarding the Commission System.**

The Commission covenants and agrees:

(a) That it will complete the acquisition and construction of additional facilities as the Board determines those facilities are needed to supply sufficient quantities of Water to the Members subject to the quantities set forth in Exhibit A as they may be modified from time to time.

(b) That it will operate and maintain the Commission System in order to be able to perform the obligation to supply Water to its Members and Customers.

(c) That it will maintain in effect any agreement or contract with each of the Members as required by any Bond Resolution or Bond Indenture.

(d) That it will treat all Charter Members equitably without preference for any one or more Charter Members over any other one or more Charter Members.

- (e) That it will enforce the provisions of each of the agreements or contracts.
- (f) That it will enforce the provisions of the Chicago Water Supply Agreement.

(g) That it will perform all of its covenants under any Bond Resolution and Bond Indenture as long as any Bonds authorized by said Bond Resolution or Bond Indenture are outstanding.

**Section 7.4. Security Covenant.**

The Commission agrees to cooperate with the Members in connection with the secure handling of information about the Commission System and the Municipal Systems in order to maximize the ongoing security of the Commission System and the Municipal Systems and the water supply.

**ARTICLE 8  
MEMBER COVENANTS**

Each Member covenants and agrees to the matters described in this Article.

**Section 8.1. Receipt of Water; Operation and Maintenance.**

(a) It will be ready, willing and able to accept delivery of Water from the Commission System no later than the Targeted Water Delivery Date and shall remain ready, willing and able to accept delivery of its Full Water Requirements from and after the Targeted Water Delivery Date for the Term, except as otherwise permitted under this Agreement.

(b) It will operate and maintain its Municipal System and all improvements and extensions of its Municipal System in good repair and working order, will operate the same efficiently and faithfully, and will punctually perform all duties with respect to its Municipal System as may be required by the Constitution and laws of the State of Illinois, by all other applicable laws and by all resolutions and ordinances of the Member.

**Section 8.2. Municipal System Ownership.**

(a) It will continue to own and possess its Municipal System and will, within the exercise of reasonable business judgment and in a manner so as not to cause a default under this Agreement, dispose of property which is part of its Municipal System only to the extent that such property is no longer useful or profitable in the operations of its Municipal System. It will mortgage or encumber the Municipal System only to the extent required to issue bonds payable from revenues of the Municipal System in accordance with applicable law.

(b) It shall not combine its existing separate waterworks system with its separate sewage system or separate its existing combined waterworks and sewerage system into separate systems before the time when all Bonds are paid or provision has been made for their payment. Thereafter, it may combine its waterworks system with its sewerage system or separate its combined waterworks system and sewerage system into separate systems only on the following conditions:

- (i) The Member shall provide the Commission with written evidence that the proposed combination or separation will not materially and adversely affect the Member's ability to comply with the terms, conditions and covenants of this Agreement; and
- (ii) if the Commission shall then determine that the proposed combination or separation will not materially and adversely affect the

Member's ability to comply with all terms, conditions and covenants of this Agreement, then, and only then, the Commission shall approve such combination or separation and advise such Member in writing.

### **Section 8.3. Municipal System Insurance.**

It will carry insurance on its Municipal System, become a member of a self-insurance pool or maintain other risk management protection of the kinds and in the amounts which are customarily carried or maintained by parties operating similar properties including, without limiting the generality of the foregoing, fire, windstorm, public liability, and all additional insurance or protection covering those risks. All monies received for loss under the insurance policies, pool coverage or risk management protection shall be used in making good such loss or damage (subject to Section 8.1), whether by repairing the property damaged or replacing the property destroyed, and provision for making good such loss or damage or replacing the property destroyed shall be made within ninety (90) days from the date of loss. The proceeds derived from any and all policies, pool coverage, risk management protection or public liability shall be credited to an account for payment of operation and maintenance of the Municipal System and used in paying the claims on account of which they were received.

### **Section 8.4. Finance.**

(a) In accordance with applicable state laws, it will adopt for each of its fiscal years a budget or appropriation ordinance providing for the payment of all sums anticipated to be due to the Commission during its fiscal year.

(b) It will make and keep proper books and accounts (separate and apart from all of its other records and accounts) in which complete entries shall be made of all transactions relating to its Municipal System, and, within one hundred and eighty (180) days following the close of each of its fiscal years, it will cause the books and accounts of its Municipal System to be audited annually by independent certified public accountants, showing the receipts and disbursements on account of its Municipal System and will cause a copy of the audit to be sent to the Commission within thirty (30) days following completion of the audit.

(c) It will provide for the segregation of all revenues of its Municipal System into a separate Municipal System fund and will provide for the application of the revenues for the purpose of Section 8.5 of this Article. Monies of its Municipal System which exceed its obligations hereunder may be used for any lawful corporate purposes.

(d) After the Effective Date, any resolution or ordinance of a Member which authorizes the issuance of any obligation of that Member to be paid from revenues of its Municipal System will expressly provide that revenues of its Municipal System may be used to pay principal of, premium, if any, and interest on those obligations only to the extent that those revenues exceed the amounts required to pay the operation and maintenance expenses of its Municipal System including, expressly, all amounts payable from time to time under this Agreement.

### **Section 8.5. Rates.**

It will establish, maintain, and revise as necessary such rates for, and collect, charges from customers of its Municipal System as shall be required from time to time to produce revenues, together with other available funds dedicated and appropriated for and deposited into the fund for



its Municipal System, at least sufficient (a) to pay all amounts due under this Agreement and to pay all other costs of operation and maintenance of its Municipal System, (b) to provide adequate reserves for its Municipal System in accordance with applicable law and prudent practice, (c) to make all deposits into all funds and accounts required by the terms of resolutions or ordinances authorizing bonds payable from revenues of its Municipal System and (d) to pay the principal of and interest on all bonds of such Member which are payable from the revenues of its Municipal System.

The Commission may not sue to enforce the provisions of this Section as they relate to clauses (b) through (d) unless it can show that the ability of a Member to make the payments set forth in clause (a) is substantially impaired by the inadequacy of said rates and charges. The rates and charges for customers of a Municipal System shall not be required, however, to be sufficient to produce amounts required to make payments under this Agreement so long as available amounts sufficient for making such payments for the next six (6) months or the remainder of such Member's fiscal year, whichever is longer, shall have been set aside in cash or investments in a separate account in its Municipal System fund designated for the purpose of making payments under this Agreement.

**Section 8.6. Allocations.**

It will maintain an Allocation at least equal to its Full Water Requirements.

**Section 8.7. Reporting.**

It will furnish to the Commission, upon request, a monthly report of its Total Water Use and Delivered Quantity. The report shall contain an explanation of any discrepancies between its Delivered Quantity and its Total Water Use for the month covered by the report.

**Section 8.8. Compliance with Agreements.**

Members shall operate and maintain their Municipal Systems in a manner that will not cause the Commission to fail to comply with any agreement with any other person or entity, including without limitation any water supply agreements such as the Chicago Water Supply Agreement, and shall provide to the Commission such information as may be necessary for the Commission to be in compliance with any such agreements.

**Section 8.9. Cooperation Regarding the Commission System.**

(a) The Members shall cooperate with the Commission in the construction, maintenance, improvement, extension and expansion of the Commission System.

(b) The Members shall provide water to the Commission for construction and testing of the Commission System. The Commission will pay the Member providing water at the Member's then-current rate for similar uses of water, such as hydrant water.

(c) Each Member shall grant to the Commission, without charge to the Commission, any reasonably required construction easements and any easements necessary for portions of the Commission System to be located on such Member's property, including without limitation all Water Delivery Structures, Points of Delivery and Connecting Mains and other appurtenances for delivery of Water by the Commission to the Member, provided that after construction the Commission agrees to restore the easement property to a condition not less than its condition prior

to the Commission's use of the property or as otherwise provided in plans and specifications included in the contract for the construction. Each Member shall grant the Commission, without charge to the Commission, access to its property to the extent reasonably necessary to survey, construct, install, operate, use, maintain, own, test, inspect, repair, remove, and replace Water Delivery Structures, Points of Delivery and Connecting Mains and other appurtenances related to the Commission System, together with all reasonable rights of ingress and egress over, along, across, and upon the Member's property necessary for the exercise of the rights granted to the Commission. All easements provided by a Member for Water Delivery Structures, Points of Delivery and Connecting Mains and other appurtenances for delivery of Water by the Commission to that Member shall be free of other utilities (including both third-party utilities and Member utilities); removal or relocation of any such utilities shall be performed by the Member at the Member's cost.

(d) If the Member proposes to locate any Water Delivery Structures, Points of Delivery and Connecting Mains and other appurtenances for delivery of Water by the Commission to the Member on property not owned by the Member, the Member shall obtain and provide for the grant to the Commission, without charge to the Commission, of any reasonably required construction easements and any easements necessary for such infrastructure to be located on such property not owned by the Member, provided that after construction the Commission agrees to restore the easement property to a condition not less than its condition prior to the Commission's use of the property or as otherwise provided in plans and specifications included in the contract for the construction. Such easements shall include a grant to the Commission of access to the property to the extent reasonably necessary to survey, construct, install, operate, use, maintain, own, test, inspect, repair, remove, and replace Water Delivery Structures, Points of Delivery and Connecting Mains and other appurtenances related to the Commission System, together with all reasonable rights of ingress and egress over, along, across, and upon the property necessary for the exercise of the rights granted to the Commission. All easements provided by a Member for Water Delivery Structures, Points of Delivery and Connecting Mains and other appurtenances for delivery of Water by the Commission to that Member shall be free of other utilities (including both third-party utilities and Member utilities); removal or relocation of any such utilities shall be performed by the Member at the Member's cost.

(e) Each Member shall grant to the Commission, without charge to the Commission, any reasonably required permits, consents and approvals necessary for the construction and operation of portions of the Commission System located within such Member's corporate limits, or within such Member's extraterritorial jurisdiction, including without limitation for use of rights-of-way, where applicable. Where Member rights-of-way are used, the Commission shall, at the Commission's cost, restore such rights-of-way after construction to a condition not less than their condition prior to the Commission's use of the rights-of-way or as otherwise provided in plans and specifications included in the contract for the construction. In addition, where Member rights-of-way are used (or where easements are used for transmission mains in lieu of rights-of-way) and relocation of utilities located within such rights-of-way is required (including both third-party utilities and Member utilities), the Commission shall be responsible for performing such utility relocations at the Commission's cost.

(f) No Member shall require the relocation or removal of any portion of the Commission System installed in its rights-of-way or easements granted to or obtained by the Member for the Commission unless the Commission agrees to the relocation or removal.

(g) Where the Commission performs construction on the Commission System within easements provided to the Commission by the Member or in a Member's rights-of-way:

- i. the Commission shall warrant, pursuant to a policy approved by the Board of Commissioners, that such construction and a Member's property in such easements or rights-of-way are free from damage or deficiencies resulting from the construction of the Commission System; and
- ii. the Commission and the Member shall review the design drawings and specifications for the particular components of the Commission System to be constructed as well as the Member's ordinances pertaining to such work for the protection of the public and of public property applicable to such components. The requirements of such ordinances shall be included in the Commission's design drawings and specifications unless the Member agrees to waive or modify its ordinance requirements.

#### **Section 8.10. Security Covenant.**

Each Member agrees to cooperate with the Commission and the other Members in connection with the secure handling of information about the Commission System and the Municipal Systems in order to maximize the ongoing security of the Commission System and the Municipal Systems and the water supply.

### **ARTICLE 9 LEGAL RELATIONSHIPS AND REQUIREMENTS**

#### **Section 9.1. Dispute Resolution.**

(a) Negotiation. The Parties desire to avoid and settle without litigation any future disputes that may arise between them relative to this Agreement. Accordingly, the Parties agree to engage in good faith negotiations to resolve any such dispute. The process in this Section 9.1 shall apply and be complied with prior to the exercise of other provisions in this Article 9.

(b) Notice and Meeting. If any Party has a dispute about a violation, interpretation, or application of a provision of this Agreement, or a dispute regarding a Party's failure to comply with this Agreement, then that Party may serve on the other Parties notice, by Certified Mail or personal service and, if desired by the Parties, may also be given by electronic communications, setting forth in detail the dispute, the provisions of this Agreement to which the dispute is related, and all facts and circumstances pertinent to the dispute. The Parties then, within seven (7) days, shall schedule a date certain for representatives of the Parties to meet in a conference to resolve the dispute. Such conference shall be conducted within fifteen (15) days after notice of the dispute has been delivered as provided in this Subsection 9.1(b).

(c) Non-Binding Mediation. If the matter remains unresolved for more than ten (10) additional days following such a conference, the Parties may mutually agree to submit the matter to non-binding mediation pursuant to the then-current Commercial Mediation Procedures of the

American Arbitration Association (AAA). If so submitted, it shall be submitted jointly and the mediation shall be administered as mutually agreed by the Parties. The mediation shall be convened not more than thirty-five (35) days after the date of initial discussions between the Parties' representatives under this Section 9.1 and concluded not more than fifty (50) days after such date of initial discussions.

(d) Continuation of Services and Payments. During all negotiation proceedings and any subsequent proceedings provided for in this Section 9.1, the Commission and the Members shall continue to fulfill the terms of this Agreement to the fullest extent possible. The Commission shall continue to perform its obligations and the Members shall continue to make payments to the Commission as required under this Agreement. The Parties may mutually agree to extend the time periods under this Section 9.1 in order to facilitate resolution of the dispute.

(e) Remedies. Provided that the Parties have met their obligations under this Section 9.1, the Parties shall be entitled to pursue such remedies as may be available in law and equity and as provided under this Agreement and the IGA. The requirements of Subsections 9.1(b) and (c) shall be waived in the event of either significant risk of irreparable harm or significant jeopardy to public health and safety.

## **Section 9.2. Force Majeure.**

In case, by reason of Force Majeure, any Party hereto shall be rendered unable, wholly or in part, to carry out its obligation under this Agreement, then, if such Party shall give notice and full particulars of such Force Majeure in writing to the other parties within a reasonable time after occurrence of the event or cause relied on, the obligation of the Party giving such notice, so far as it is affected by such Force Majeure shall be suspended during the continuance of the inability then claimed, but for no longer period. Such notice shall include an explanation of how the Force Majeure in fact interferes with the ability of the Party to discharge its obligations under this Agreement. Any such Party shall endeavor to remove or overcome such inability with all reasonable dispatch. The above requirement that any Force Majeure shall be remedied with all reasonable dispatch shall not require the settlement of strikes and lockouts by acceding to the demands of opposing parties when, in the judgment of the Party having the difficulty, such settlement would be unfavorable to it. No Force Majeure which renders any of the Parties unable to perform under this Agreement shall relieve a Member of its obligation to make payments to the Commission as required under this Agreement.

## **Section 9.3. Commission Defaults.**

The Commission's failure to deliver Water to a Member as required by this Agreement or the Commission's failure to perform any other obligation under this Agreement and the continuation of that failure to perform for thirty (30) days after written notice from such Member to the Commission of such failure shall be a default of the Commission under this Agreement, unless any such failure is recognized pursuant to Section 9.2.

## **Section 9.4. Member Remedies in Event of Commission Default.**

In the event of a default by the Commission under this Agreement, a Member may bring any action against the Commission, including an action in equity and actions for mandamus and specific performance, to the extent allowed by law, but in any event, whether or not there is a Commission default, such Member shall have no right to cancel or rescind this Agreement, no

right to withhold payments due or to become due under this Agreement, no right to recover amounts previously paid under this Agreement, no right of reduction of or set off against amounts due or to become due under this Agreement and no claim on any amounts in any fund or account of the Commission other than amounts in a general reserve fund or account or any surplus fund or account that may then be withdrawn by the Commission, free from the lien of any Bond Resolution or Bond Indenture. Election of any remedy shall not be a waiver of any other remedy. The Commission will issue its Bonds in specific reliance on the limitations set forth in this Section.

**Section 9.5. Member Enforcement of Provisions.**

Each Member acknowledges that its obligations hereunder are a benefit to each other Member and to Customers as such other Members' and Customers' obligations are a benefit to the Member. Accordingly, each Member agrees that, in addition to the Commission, Bondholders, the Trustee or other parties by law entitled to enforce the provisions of this Agreement, any three or more Members acting together may enforce the provisions of this Article against another Member or Members, but only if the Commission has not acted to enforce such provisions within ninety (90) days after a failure to cure a default under this Agreement. Any rights any Member has under this Agreement or other contracts with the Commission shall be limited in enforcement as set forth in this Agreement.

**Section 9.6. Commission Remedies in Event of a Member Default.**

In addition to any other remedy that may be available to the Commission at law or in equity or under this Agreement or the IGA, including any right to suspend delivery of Water, the Commission shall have the following remedies in the event of default by a Member:

(a) In the event of a default involving the failure to pay any amounts payable under this Agreement, the Commission (and the Trustee) shall have the right to exercise the assignment as described in Section 10.6.

(b) In the event of a default involving a Member's failure to purchase its Full Water Requirements from the Commission as required by this Agreement, or a Member's failure to perform any other obligation under this Agreement and the continuation of that failure for thirty (30) days after notice from the Commission or the Trustee of such failure, the Commission shall have the rights to declaratory judgment, mandamus and specific performance of the Member's obligations to the extent allowed by law.

Election of any remedy shall not be a waiver of any other remedy.

**ARTICLE 10  
MISCELLANEOUS PROVISIONS**

**Section 10.1. Execution; Counterparts.**

Each of the Parties represents that the persons executing this Agreement on behalf of such Party is duly authorized to do so. This Agreement may be executed in multiple identical counterparts, and all of said counterparts will, individually and taken together, constitute one and the same Agreement. Any such counterpart may be signed by one or more of the Parties so long as each of the Parties has signed one or more of such counterparts.

**Section 10.2. Entire Agreement.**

There are no representations, covenants, promises, or obligations not contained in this Agreement that form any part of this Agreement or upon which any of the Parties is relying in entering into this Agreement, other than the IGA, the Bylaws and the Program Management Agreement between the Commission and the City of Joliet.

**Section 10.3. Exhibits.**

Exhibits A through E are attached to and, by this reference, incorporated in and made a part of this Agreement. In the event of a conflict between an Exhibit and the text of this Agreement, the text of this Agreement shall control.

**Section 10.4. Amendment.**

This Agreement may be amended only by written agreement of all Members. An amendment is effective only when authorized by ordinances adopted by each Member's corporate authorities, certified copies of which must be filed with the Secretary of the Commission. An amendment may be subject to limitations pertaining to any outstanding Bonds of the Commission.

**Section 10.5. Notices.**

Except in the case of an emergency, all notices and other communications in connection with this Agreement shall be in writing and will be deemed delivered to the addressee thereof when delivered in person, by a reputable overnight courier, or by messenger at the Party's designated address, or three Business Days after deposit thereof in any main or branch United States post office, certified or registered mail, return receipt requested, postage prepaid, properly addressed to the Parties, respectively, at each Party's contact information as provided with its signature. A Party may change its contact information by giving notice to all other Parties pursuant to this Section. Notice of an emergency relating to this Agreement, including the delivery of Water to the Members, shall also be given as soon as practicable by the Commission to each Member potentially affected by the emergency, and by each Member to the Commission. The Commission shall notify any other Members potentially affected by the emergency following receipt of such an emergency notice. Emergency notices shall be provided to a Party's emergency contact, which shall be provided by each Party to all other Parties in writing upon execution of this Agreement.

**Section 10.6. Assignability.**

(a) In General. Except to the extent hereinafter provided, no party shall assign or transfer this Agreement or any rights or interests herein without unanimous approval of the Commissioners representing all of the Members and approval of each Member's corporate authorities.

(b) Pledge or Assignment to Trustee. The Commission may, at any time, pledge or assign for the benefit and security of the owners of its Bonds any or all of its rights under the provisions of this Agreement to receive payments from any Member, and thereafter this Agreement shall not be terminated, modified, amended or changed by the Commission or any Member except in the manner (if any) permitted, and subject to the conditions (if any) imposed, by the terms and conditions of such pledge or assignment and as provided in the Bond Resolution and Bond Indenture to secure the payment of the principal of, premium, if any, and interest on the Bonds as those amounts come due, subject to the application of those payments as may be provided in the Bond Resolution and Bond Indenture. In the case of such pledge or assignment, the Members will

make payments directly to the Trustee as provided in the Bond Indenture. The rights of the Commission to enforce the provisions of this Agreement may be assigned to the Trustee under the Bond Indenture and, in such event, the Trustee will have the right to enforce this Agreement at law or equity with or without the further consent or participation of the Commission. The Commission may also retain the right to enforce this Agreement.

**Section 10.7. No Third-Party Beneficiaries.**

Nothing in this Agreement shall create, or be construed to create, any third-party beneficiary rights.

**Section 10.8. Tax Covenant.**

The Commission and each Member shall not take, or omit to take, any action lawful and within its power to take, which action or omission would cause interest on any Bond to become subject to federal income taxes in addition to federal income taxes to which interest on such Bond is subject on the date of original issuance of such Bond.

**Section 10.9. Waiver.**

No waiver of any provision of this Agreement shall be deemed to or constitute a waiver of any other provision of this Agreement (whether or not similar) nor shall any such waiver be deemed to or constitute a continuing waiver unless otherwise expressly provided in this Agreement.

**Section 10.10. Rights Cumulative.**

Unless expressly provided to the contrary in this Agreement, each and every one of the rights, remedies, and benefits provided by this Agreement shall be cumulative and shall not be exclusive of any other such rights, remedies, and benefits allowed by law.

**Section 10.11. Regulatory Bodies.**

This Agreement will be subject to all valid rules, regulations, and laws applicable to this Agreement passed and promulgated by the United States of America, the State of Illinois, or any other governmental body or agency having lawful jurisdiction, or any authorized representative or agent of any of them; provided, however, that this Section will not be construed as waiving the right of any Party to challenge the validity of any such rules, regulations, or laws on any basis, including the impairment of this Agreement. The Parties through this Agreement seek to exercise and maintain all sovereign rights granted to them under and through the Constitution and laws of the State of Illinois.

**Section 10.12. Evidence of Actions.**

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

**Section 10.13. Severability.**

If any part, term, or provision of this Agreement is held invalid, void or unenforceable by a court of competent jurisdiction for any reason, the remainder of this Agreement shall be interpreted, applied and enforced as to achieve, as near as may be, the purpose and intent of this Agreement to the maximum extent possible.

**Section 10.14. Binding Effect.**

The terms of this Agreement shall bind and inure to the benefit of the Parties and their agents, successors, and assigns.

**Section 10.15. Time.**

Time is of the essence in the performance of this Agreement.

**Section 10.16. Governing Law.**

This Agreement shall be governed by, and enforced in accordance with, the internal laws, but not the conflicts of laws rules, of the State of Illinois.

**Section 10.17. Superseder.**

The terms of this Agreement do not supersede the terms of the IGA. In the event of a question regarding the interpretation or application of this Agreement and the IGA, these documents shall be read together.

*[signatures on following pages]*



IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date written below.

**Grand Prairie Water Commission**, an  
Illinois regional water commission,  
municipal corporation and body politic  
and corporate

By: \_\_\_\_\_

Its: \_\_\_\_\_

Date: \_\_\_\_\_

ATTEST:

By: \_\_\_\_\_

Its: \_\_\_\_\_

*Contact Party for Grand Prairie Water  
Commission:*

Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_  
Telephone: \_\_\_\_\_

Email: \_\_\_\_\_

\_\_\_\_\_

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date written below.

**Village of Channahon**, an Illinois home rule  
municipal corporation

By: \_\_\_\_\_

Its: \_\_\_\_\_

Date: \_\_\_\_\_

ATTEST:

By: \_\_\_\_\_

Its: \_\_\_\_\_

*Contact Party for the Village of Channahon:*

Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Telephone: \_\_\_\_\_

Email: \_\_\_\_\_

---

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date written below.

**City of Crest Hill**, an Illinois municipal  
corporation

By: \_\_\_\_\_

Its: \_\_\_\_\_

Date: \_\_\_\_\_

ATTEST:

By: \_\_\_\_\_

Its: \_\_\_\_\_

*Contact Party for the City of Crest Hill:*

Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Telephone: \_\_\_\_\_

Email: \_\_\_\_\_

---

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date written below.

**City of Joliet**, an Illinois home rule  
municipal corporation

By: \_\_\_\_\_

Its: \_\_\_\_\_

Date: \_\_\_\_\_

ATTEST:

By: \_\_\_\_\_

Its: \_\_\_\_\_

*Contact Party for the City of Joliet:*

Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Telephone: \_\_\_\_\_

Email: \_\_\_\_\_

\_\_\_\_\_

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date written below.

**Village of Minooka**, an Illinois municipal  
corporation

By: \_\_\_\_\_

Its: \_\_\_\_\_

Date: \_\_\_\_\_

ATTEST:

By: \_\_\_\_\_

Its: \_\_\_\_\_

*Contact Party for the Village of Minooka:*

Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Telephone: \_\_\_\_\_

Email: \_\_\_\_\_

\_\_\_\_\_

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date written below.

**Village of Romeoville**, an Illinois home  
rule municipal corporation

By: \_\_\_\_\_

Its: \_\_\_\_\_

Date: \_\_\_\_\_

ATTEST:

By: \_\_\_\_\_

Its: \_\_\_\_\_

*Contact Party for the Village of Romeoville:*

Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Telephone: \_\_\_\_\_

Email: \_\_\_\_\_

\_\_\_\_\_

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date written below.

**Village of Shorewood**, an Illinois home  
rule municipal corporation

By: \_\_\_\_\_

Its: \_\_\_\_\_

Date: \_\_\_\_\_

ATTEST:

By: \_\_\_\_\_

Its: \_\_\_\_\_

*Contact Party for the Village of Shorewood:*

Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Telephone: \_\_\_\_\_

Email: \_\_\_\_\_

\_\_\_\_\_

**EXHIBIT A****MEMBERS' DECLARED MAXIMUM DAY DEMANDS AND  
ESTIMATED BUILDOUT DECLARED MAXIMUM DAY DEMANDS**

<b><u>Member</u></b>	<b><u>Declared 2050 Maximum Day Demand (MGD)</u></b>	<b><u>Estimated Buildout Declared Maximum Day Demand (MGD)</u></b>
<b>Village of Channahon</b>	<b>4.04</b>	<b>6.34</b>
<b>City of Crest Hill</b>	<b>Total: 4.18  Amount of Total Attributable to Stateville Correctional Center: 1.22</b>	<b>Total: 4.18  Amount of Total Attributable to Stateville Correctional Center: 1.22</b>
<b>City of Joliet</b>	<b>32.00</b>	<b>65.00</b>
<b>Village of Minooka</b>	<b>4.00</b>	<b>9.39</b>
<b>Village of Romeoville</b>	<b>6.25</b>	<b>8.25</b>
<b>Village of Shorewood</b>	<b>4.80</b>	<b>10.40</b>
<b>MEMBER TOTALS:</b>	<b>55.27</b>	<b>103.56</b>
<b>Future Customer Reserve – Village of Lemont</b>	<b>4.00</b>	<b>6.00</b>



**EXHIBIT B**

**AREAS WITHIN MEMBERS THAT ARE SERVED BY OTHER WATER SUPPLIERS**

**City of Crest Hill:**

Served by City of Joliet (1659 Plainfield Road; 1670 Theodore Street; 1680 Theodore Street)

**Village of Channahon:**

Served by City of Joliet (East of I-55, as shown on attached map, page B-2)

**City of Joliet:**

Served by City of Crest Hill (1600 North Larkin Avenue)

Served by Village of Plainfield (The Boulevard as shown on attached map, page B-3)

Served by Southeast Joliet Sanitary District (Sunset Point as shown on attached map, page B-4)

Served by Village of Elwood (24242 South Intermodal Court, Elwood, IL)

**Village of Minooka:**

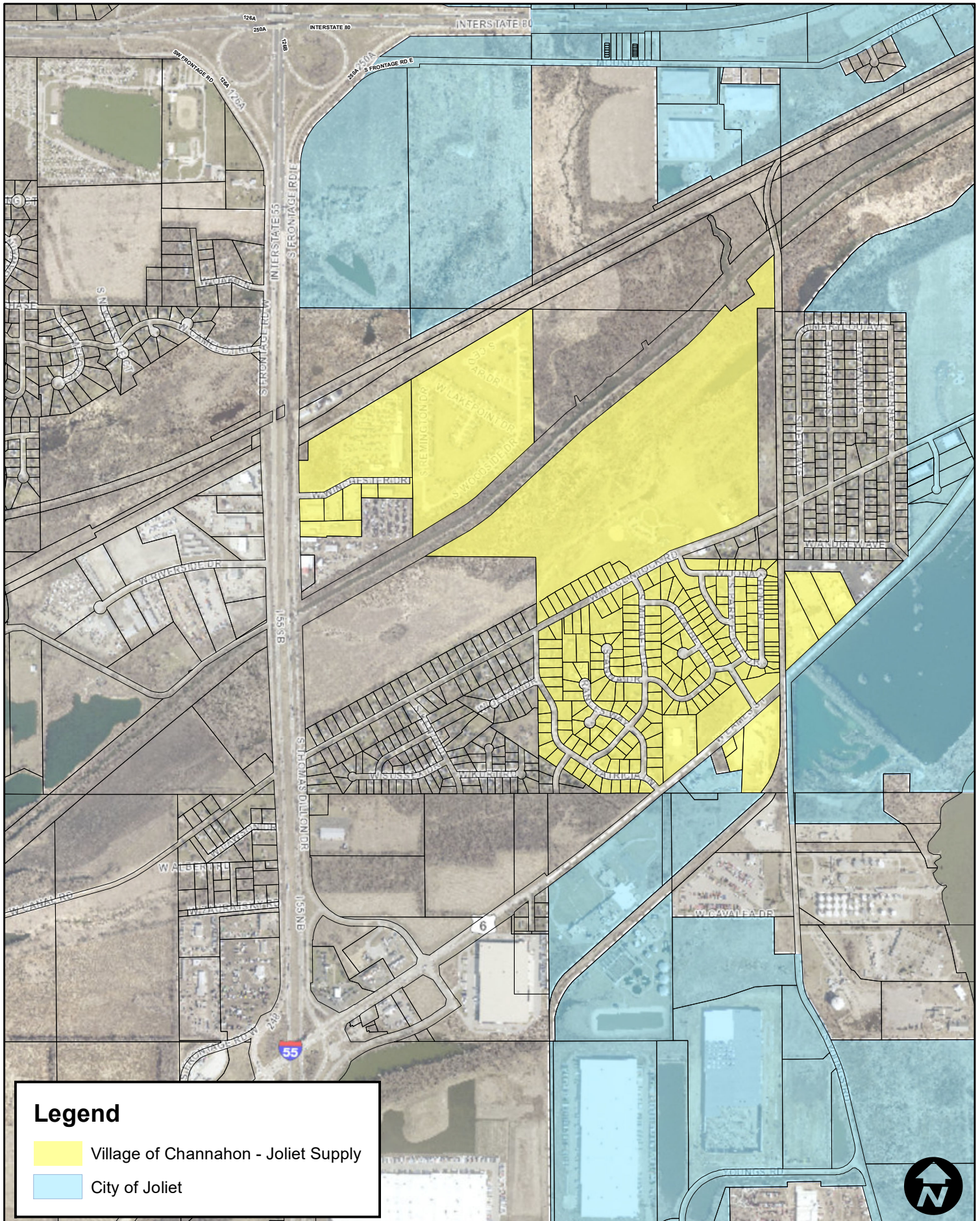
None

**Village of Romeoville:**

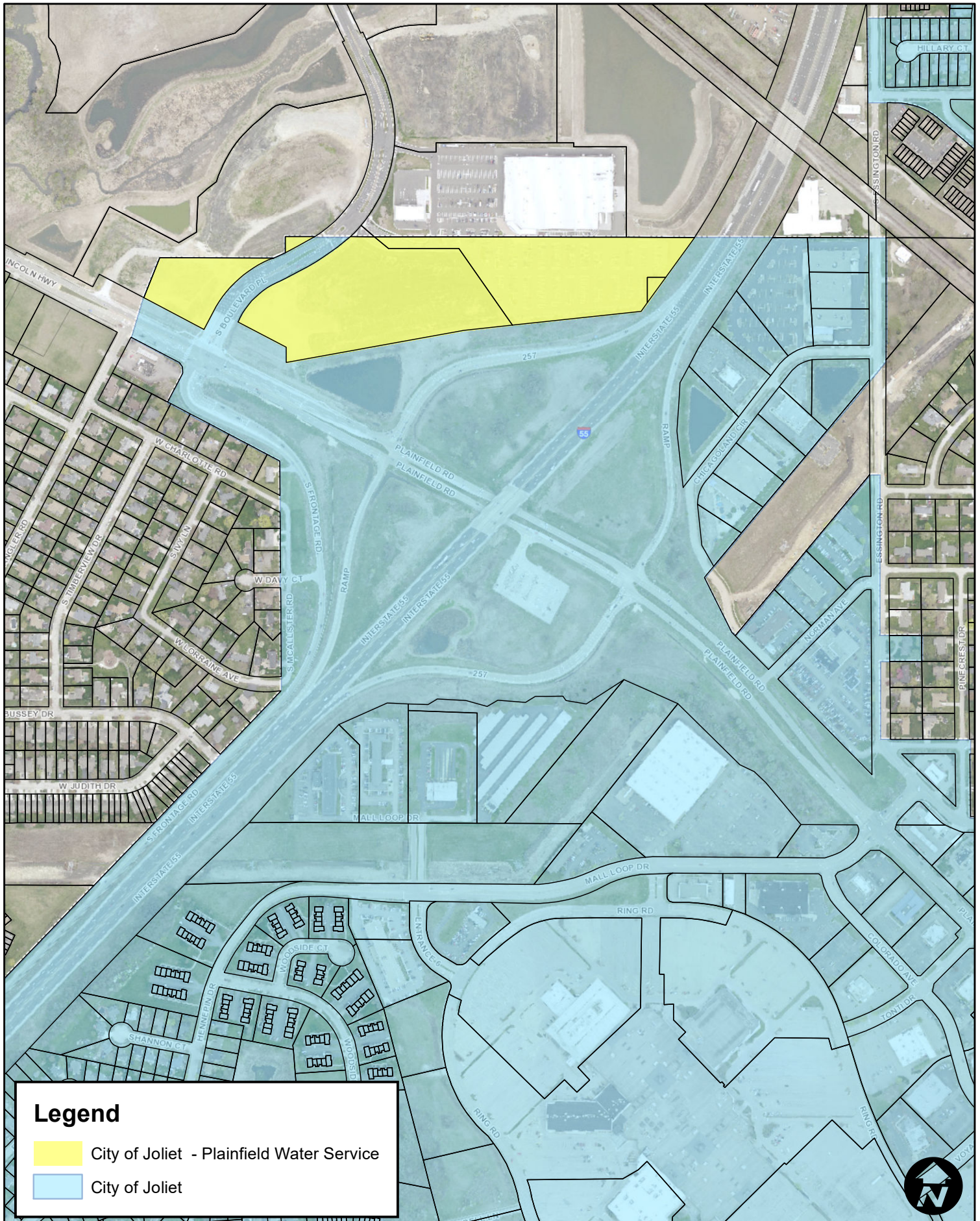
Served by Illinois American Water Company (1400 Bluff Road, Romeoville; 1408 Bluff Road, Romeoville; 1412 Joliet Road, Romeoville; 1413 Sherman Drive, Romeoville; 1424 Sherman Drive, Romeoville; 1404 Sherman Drive, Romeoville; 1414 Sherman Drive, Romeoville; 1428 Sherman Drive, Romeoville; 1404 Joliet Road, Romeoville; 310 E Crossroads Parkway, Bolingbrook; 309 E Crossroads Parkway, Bolingbrook; 150 E Crossroads Parkway, Bolingbrook; 115 E Crossroads Parkway, Bolingbrook; 101 E Crossroads Parkway, Bolingbrook; 571 S Joliet Road, Bolingbrook; 300 E Crossroads Parkway, Bolingbrook; 1426 Sherman Drive, Romeoville; 825 Bluff Road, Romeoville; 815 Bluff Road, Romeoville; 821 Bluff Road, Romeoville; 279 Marquette Drive, Bolingbrook; 273 Marquette Drive, Bolingbrook; 265 Marquette Drive, Bolingbrook; 175 E Crossroads Parkway, Bolingbrook; 1001 W Bluff Road, Romeoville; 901 W Bluff Road, Romeoville; 1404 Joliet Road Sprinkler, Romeoville)

**Village of Shorewood:**

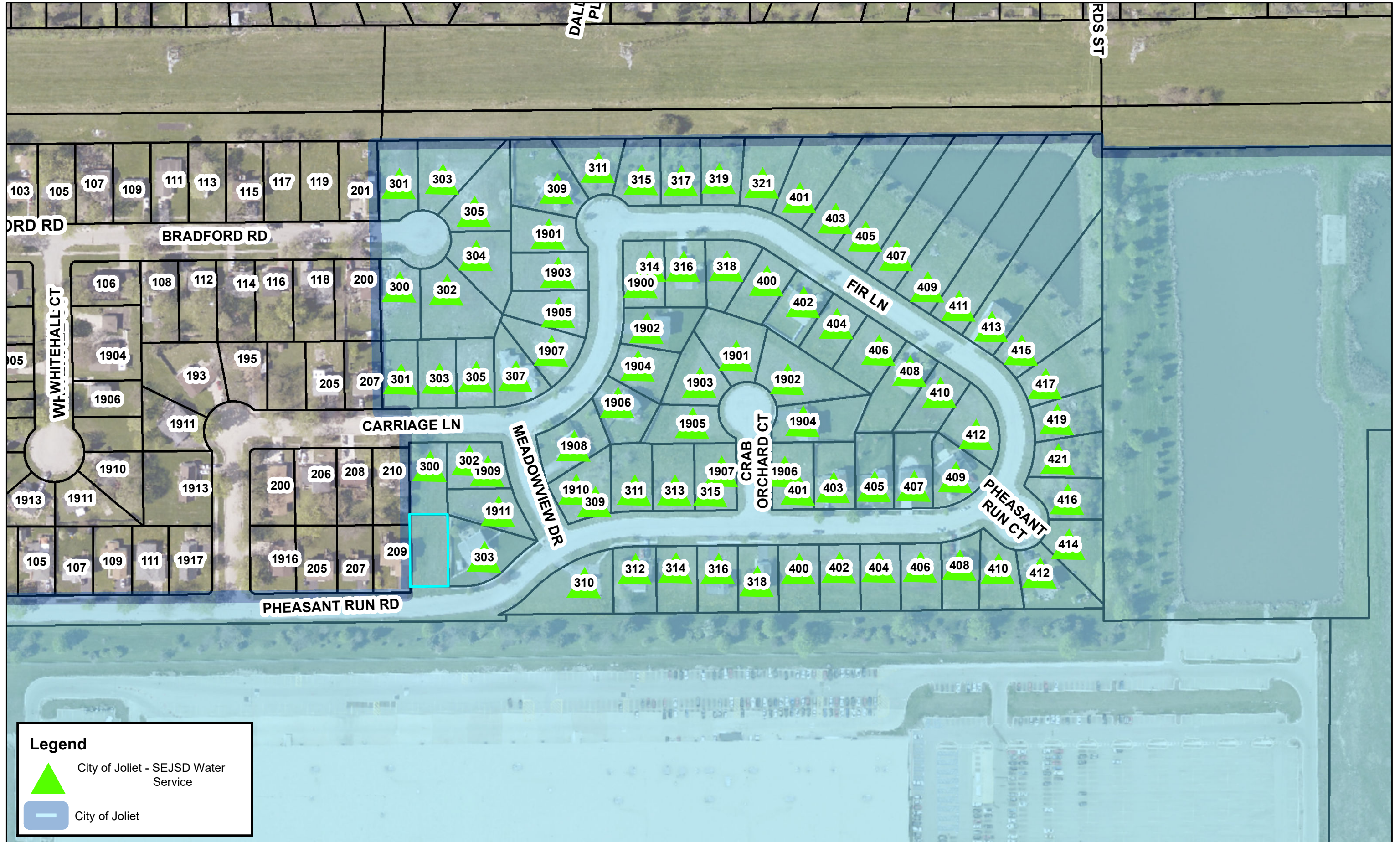
Served by City of Joliet (19356 NE Frontage Road; 19521 NE Frontage Road; 19755 NE Frontage Road; 4355 W Jefferson Street; 4303 W Jefferson Street; 19515 NE Frontage Road; 19641 NE Frontage Road; 19715 NE Frontage Road; 19735 NE Frontage Road; 23435 Black Road)













**EXHIBIT C****AREAS SERVED BY MEMBERS OUTSIDE OF THE  
MEMBER'S CORPORATE BOUNDARIES**

<b>Village of Channahon:</b>
Wholesale: None
Retail: None
Emergency Interconnections: Village of Minooka

<b>City of Crest Hill:</b>
Wholesale: None
Retail: Serves City of Joliet (1600 North Larkin Avenue)
Emergency Interconnections: City of Joliet

<b>City of Joliet:</b>
Wholesale: Serves Aqua Illinois (Oakview Area System as shown on attached map, page C-3)  Village of Channahon (East of I-55, as shown on attached map, page C-4)
Retail: Serves City of Crest Hill (1659 Plainfield Road; 1670 Theodore Street; 1680 Theodore Street)  Unincorporated areas referred to as Fairmont Subdivision (Lockport Township), Ridgewood, and Shawnita, all as depicted on the attached map, as well as individual addresses shown on attached map, page C-5  Serves Village of Elwood (2105 Logistics Court)  Serves Village of New Lenox (3617 Wimborne Avenue; 3619 Wimborne Avenue; 3621 Wimborne Avenue; 3623 Wimborne Avenue; 3625 Wimborne Avenue; 3627 Wimborne Avenue; 3701 Wimborne Avenue; 3703 Wimborne Avenue; 3705 Wimborne Avenue; 3707 Wimborne Avenue)  Serves Village of Shorewood (19356 NE Frontage Road; 19521 NE Frontage Road; 19755 NE Frontage Road; 4355 W Jefferson Street; 4303 W Jefferson Street; 19515 NE Frontage Road; 19641 NE Frontage Road; 19715 NE Frontage Road; 19735 NE Frontage Road; 23435 Black Road)

Emergency Interconnections: City of Crest Hill Illinois American Water Company Southeast Joliet Sanitary District Village of Elwood Village of Rockdale
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<b>Village of Minooka:</b>
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Wholesale: None
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Retail:
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Serves 11450 N. Tabler Road 5836 E. Minooka Road Rest Area, Shady Oaks Road 8410 McEvilly Road Rest Area, I-80 Westbound 8960 Condor Court
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Emergency Interconnections: Village of Channahon
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<b>Village of Romeoville:</b>
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Wholesale: None
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Retail:
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Unincorporated areas of Crossroads, Carillon, and Lakewood Falls as depicted on attached map, page C-6
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Emergency Interconnections: None
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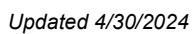
<b>Village of Shorewood:</b>
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Wholesale: None
-----------------

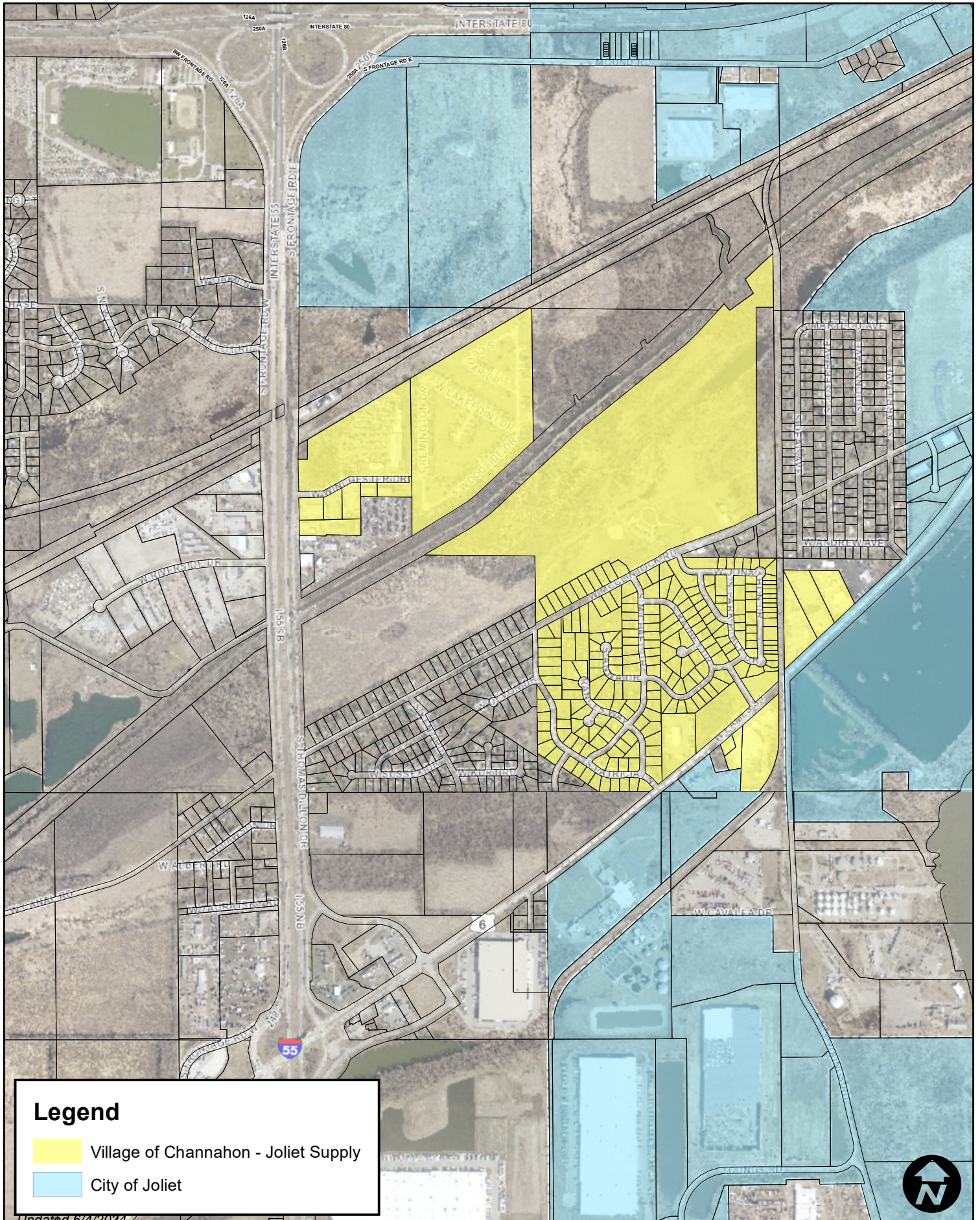
Retail: None
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Emergency Interconnections: None
----------------------------------

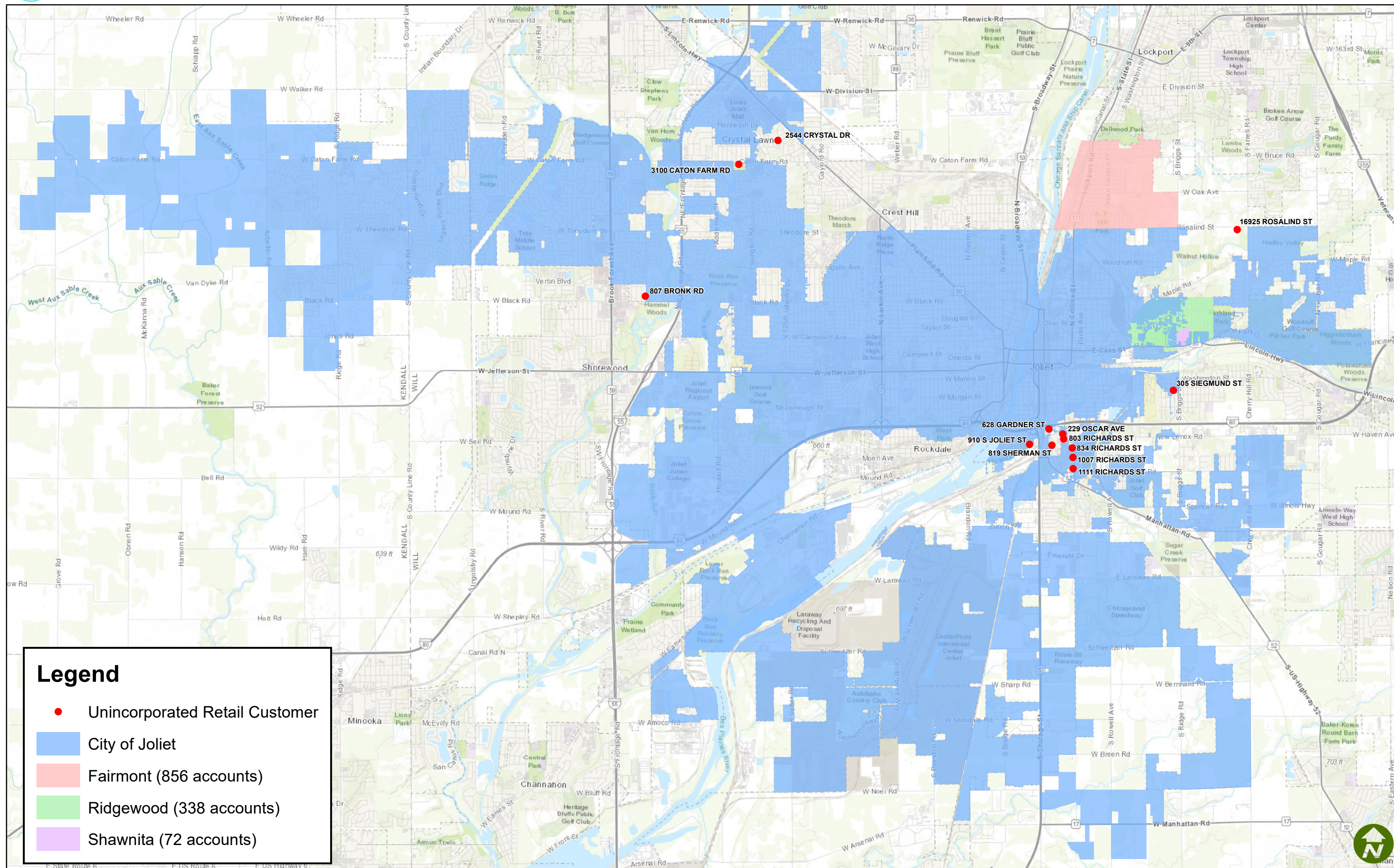




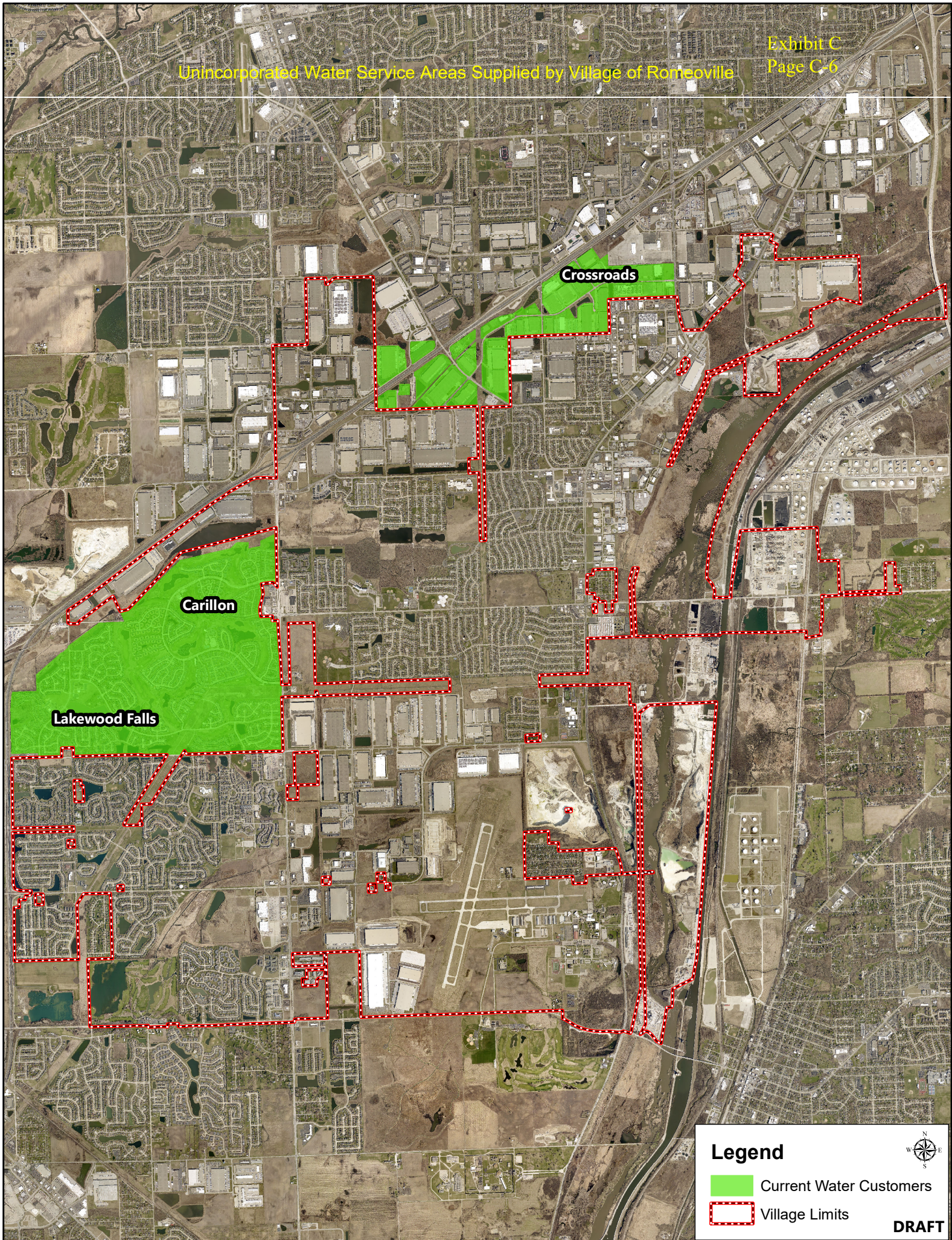














**EXHIBIT D**

**ROMEOTVILLE DELIVERY POINT CREDIT**

The Village of Romeoville has reevaluated the location of its primary Water Delivery Structure and proposes to place it at a site in the Village of Romeoville that will be identified by Romeoville pursuant to Section 4.8(a). The basis for the credit is described in this Exhibit.

1. Description of the Relocation Work.

A. Original Primary Delivery Point: This location is located north of I-55 and includes Romeoville's existing water storage (1.0 MG) and pumping station site (4.0 MGD). If the primary delivery point is at this site, (i) the Commission transmission main will require significant extension, including a bore and jack under and across I-55; and (ii) Romeoville would add 4.6 MGD in pump station capacity and construct local distribution and transmission main improvements to distribute water from the delivery point throughout the Romeoville distribution system.

B. Alternate Location for Primary Delivery Point: This location is owned by Romeoville, is not currently used for water facilities and will be developed for Romeoville's primary Water Delivery Structure. Romeoville will construct the facilities necessary for it to accept delivery for transmission to its customers, including but not limited to two new water storage tanks and a water pumping station at this location, and demolish the existing tank and booster station at the Original Primary Delivery Point and other off-site facilities made redundant by the improvements to be made at the Alternate Location for Primary Delivery Point as part of its work, at a cost of at least \$25,000,000.00. The extension of the Commission transmission main to this location will be significantly shorter and will not require a crossing of I-55, and Romeoville's local distribution and transmission main improvements will be significantly less extensive.

2. Romeoville's Request for Credit. Romeoville has requested that the Commission provide a credit to Romeoville for \$3,160,865 of its additional costs associated with the Alternate Primary Delivery Point.

3. Basis for and Terms of the Credit.

A. Based on review of the Romeoville proposal, the Commission has determined that authorizing the change to Romeoville's Alternate Primary Delivery Point: (i) will result in increased capital costs to Romeoville by approximately \$7.66 million and reduced capital costs to the Commission by approximately \$11.28 million, and (ii) will not increase capital costs of another Member.

B. Following completion of the work at the Original Primary Delivery Point and the Alternate Primary Delivery Point by Romeoville described in this Exhibit, Romeoville shall submit a report to the Commission describing the construction and demolition work that Romeoville has performed. All work described in Section 1.B above shall be completed by Romeoville not later than the Targeted Water Delivery Date and the demolition work described in Section 1.A above

to remove the existing tank and booster station shall be completed by Romeoville not later than December 31, 2035. In the performance of this work, Romeoville shall comply with the water storage requirements of Section 4.6 of this Agreement to enable the Commission to comply with the water storage requirements of the Chicago Water Supply Agreement.

4. The Credit.

The credit will be in the fixed dollar amount of \$3,160,865 and not based on a percentage of construction costs or other method, and will be applied to Romeoville's share of the Program Capital Costs Primary and Capital Costs Non-Primary.

The credit will be eliminated if Romeoville does not construct the improvements described in Section 1.B above, with appropriate adjustments to be made to Romeoville's proportionate share of the Capital Primary and Capital Costs Non-Primary amount by removing the credit amount so as to place Romeoville and the Commission in the position that they would have been had credit not been included in this Agreement.

**EXHIBIT E**

**WATER DELIVERY STRUCTURE AND POINT OF DELIVERY DIAGRAM**

