

**RESOLUTION
R 31-18**

**A RESOLUTION AUTHORIZING SIGNATURE OF
PRESIDENT AND CLERK ON AN AGREEMENT**

WHEREAS, the Corporate Authorities of the Village of Lombard have received an Intergovernmental Agreement between the Village of Lombard and the Village of Glen Ellyn regarding Hill Avenue utility improvements.

WHEREAS, the Corporate Authorities deem it to be in the best interest of the Village of Lombard to approve such agreement.

NOW, THEREFORE, BE IT RESOLVED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF LOMBARD, DU PAGE COUNTY, ILLINOIS as follows:

SECTION 1: That the Village President be and hereby is authorized to sign on behalf of the Village of Lombard said agreement as attached hereto.

SECTION 2: That the Village Clerk be and hereby is authorized to attest said agreement as attached hereto.

Adopted this 3rd day of May, 2018.

Ayes: Trustee Whittington, Fugiel, Foltyniewicz, Johnston, Pike and Ware


Nays: None

Absent: None

Approved this 3rd day of May, 2018.


Keith Giagnorio
Village President

ATTEST:


Sharon Kuderna
Village Clerk

**AN INTERGOVERNMENTAL AGREEMENT BETWEEN
THE VILLAGE OF GLEN ELLYN AND
THE VILLAGE OF LOMBARD
REGARDING THE CONSTRUCTION OF A WATER MAIN TO CONNECT THE
GLENBARD WASTEWATER AUTHORITY COMBINED SEWER OVERFLOW
FACILITY TO THE GLEN ELLYN WATER DISTRIBUTION SYSTEM**

This Intergovernmental Agreement (hereinafter referred to as the "Agreement") is by and between the Village of Glen Ellyn (hereinafter referred to as "Glen Ellyn"), a home rule municipality in DuPage County, Illinois, and the Village of Lombard (hereinafter referred to as "Lombard"), a municipality in DuPage County, Illinois. Lombard and Glen Ellyn are hereinafter sometimes individually referred to as a "Party" or collectively as the "Parties."

Recitals

WHEREAS, the Glenbard Wastewater Authority Combined Sewer Overflow (CSO) Facility (hereinafter referred to as "CSO Facility), operated by the Glenbard Wastewater Authority (GWA), and certain properties adjacent to Hill Avenue, are currently connected to the Lombard potable water distribution system by a water main pipe running underneath Illinois Route 53 and Illinois Interstate 355, causing Lombard significant present and future maintenance concerns and costs; and

WHEREAS, Lombard provides water to parcels in unincorporated Glen Ellyn located adjacent to Hill Avenue, as depicted in Exhibit "A" attached hereto and made part hereof, and has five hundred and thirty-five (535) feet of six (6) inch water main (hereinafter referred to as "Watermain") under Illinois Route 53 and Illinois Interstate 355 that feeds the properties along Hill Avenue, including the CSO Facility; and

WHEREAS, Lombard has determined that it is in the best interests of its residents to abandon the Watermain, disconnect the CSO Facility from its water system, and for Glen Ellyn to provide water to the CSO Facility and those other properties currently served by the Watermain; and

WHEREAS, Lombard will retain ownership, maintenance, and operation of a section of the Watermain and a future metering station on Hill Avenue, between the CSO Facility and Glen Ellyn's water distribution system, immediately West of the West end of the Hill Avenue Bridge over the East Branch of the DuPage River, which will ultimately be the CSO Facility's water service line to be connected to Glen Ellyn's water distribution system; and

WHEREAS, Glen Ellyn currently owns, operates, and maintains a twelve (12) inch water main along Crescent Boulevard which terminates approximately five hundred and seventy-five (575) feet West of the West end of the Crescent Boulevard Bridge over the East Branch of the DuPage River; and

WHEREAS, Glen Ellyn currently owns, operates and maintains a twelve (12) inch water main along Hill Avenue which currently terminates at the intersection of Hill Avenue and Golf Avenue; and

WHEREAS, Glen Ellyn seeks to improve the performance of its water distribution system by connecting the Crescent Boulevard and Hill Avenue water mains to create a looped system, which will buffer system operating pressure, eliminate the dead end water mains on Hill Avenue and Crescent Boulevard, and, therefore, improve water quality and service in the system, and which implementation of the aforementioned will require extending both water mains to a point where they can be most cost-effectively connected; and

WHEREAS, Glen Ellyn has contracted with Walter E. Deuchler Associates, Inc. to develop plans and specifications for a project to construct a water main that would traverse the Union Pacific Railroad Company (hereinafter referred to as the "UPRR") right-of-way and be extended along Hill Avenue to serve water to the parcels adjacent to Hill Avenue, including to the service line to the CSO Facility (hereinafter referred to as the "Project"); and

WHEREAS, the Project, which is generally depicted in Exhibit "B" to this Agreement, will address the needs of both Parties by improving efficiencies in the provision of water utility services for Parties; and

WHEREAS, both the 1970 Illinois Constitution (Article VII, Section 10) and the Intergovernmental Cooperation Act (5 ILCS, 220/1 et seq.) authorize and encourage intergovernmental cooperation; and

WHEREAS, it is in the best interest of Glen Ellyn and Lombard to work jointly together to assure the completion of the Project in a timely and cost-effective manner.

NOW, THEREFORE, in consideration of the foregoing, the promises, covenants, terms and conditions set forth in this Agreement and other good and valuable consideration, it is hereby agreed by and between Glen Ellyn and Lombard as follows:

I. Glen Ellyn Responsibilities. Glen Ellyn is responsible for and agrees to the following:

- A. Glen Ellyn shall cause to be performed, by qualified engineers engaged by Glen Ellyn, the preparation of engineering plans and specifications ("Plans") necessary to construct the Project.
- B. Glen Ellyn shall submit preliminary plans (in accordance with Section 11-2.01 of the Illinois Department of Transportation Bureau of Local Roads and Streets Manual) to Lombard for review upon receipt thereof.
- C. Glen Ellyn shall submit Plans to the UPRR to obtain proper permits and rights for the construction of the portion of the Project within the UPRR right-of-way.
- D. Glen Ellyn shall provide Lombard with pre-final plans and specifications for the Project, for review and approval by Lombard, prior to releasing the Project for bidding any construction relative to the implementation of the approved plans for the Project.
- E. Subject to review and approval thereof by Glen Ellyn's attorney and Village Board, Glen Ellyn will prepare any contracts necessary of the construction of the Project.
- F. Glen Ellyn shall serve as the lead agency for the construction of all necessary improvements identified in the plans for the Project.
- G. Glen Ellyn will seek all necessary permits and approvals for the construction of the Project.

- H. Glen Ellyn shall invoice Lombard for Lombard's portion of the Project costs, in unison with the invoices received from the contractor and engineers working on the project. Invoicing for construction costs shall be based upon the schedule in Section II.F of this Agreement.
- I. Glen Ellyn shall be responsible for all future maintenance, repair and replacement costs associated with the improvements included as part of the Project, with the exception of the metering station and service line that will serve the CSO Facility.
- J. In the event that Glen Ellyn does not complete the Project by the end of 2028, Glen Ellyn shall reimburse Lombard for its share of the cost to prepare the plans for the Project, with interest at the rate of two percent (2%) per annum, from the date the payment was submitted to Glen Ellyn, minus any losses incurred by Glen Ellyn due to Lombard's failure to provide a timely review and approval of the plans for the Project.
- K. Glen Ellyn shall require all contractors to name Lombard and its officers, agents and employees as additional insureds on insurance policies, with certificates of insurance to evidence same, plus indemnification from said contractors relative to claims against Lombard and its officers, agents and employees, as a result of the construction of the Project. Glen Ellyn will require the contractor in regard to the Project to meet or exceed the minimum levels of insurance, based upon either Glen Ellyn's or Lombard's requirements, whichever is more stringent.

II. Lombard Responsibilities. Lombard is responsible for and agrees to the following:

- A. Lombard shall provide any necessary letters of support and assistance in regard to any permitting and approvals necessary for the construction of the Project.
- B. Lombard shall provide written review comments for preliminary and pre-final plans and specifications within forty-five (45) days of receipt of the documents submitted by Glen Ellyn.
- C. Lombard shall commit to fund fifty percent (50%) of the engineering costs, for the Project, including costs to prepare the plans, in a not to exceed amount of twenty-five thousand and no/100 dollars (\$25,000.00).
- D. Lombard agrees that Glen Ellyn has the authority to award the Project to the lowest responsible bidder as determined by Glen Ellyn.
- E. Lombard shall reimburse Glen Ellyn for its portion of the Project costs, including all construction and engineering costs, based upon the following schedule, based upon the final Project completion date:

| Completion | Lombard Percentage of Project Costs | Glen Ellyn Percentage of Project Costs |
|-------------------|--|---|
| 12/31/2021 | 60% | 40% |
| 12/31/2022 | 58% | 42% |
| 12/31/2023 | 56% | 44% |
| 12/31/2024 | 54% | 46% |
| 12/31/2025 | 52% | 48% |
| 12/31/2026 | 50% | 50% |
| 12/31/2027 | 50% | 50% |
| 12/31/2028 | 50% | 50% |

- F. Lombard shall be responsible for all future maintenance, repair and replacement costs associated with the service line, including the water meter and vault in relation thereto, that will serve the CSO Facility.

III. Glen Ellyn Indemnification of Lombard

Glen Ellyn shall indemnify and hold harmless Lombard, and its elected officials, officers, agents and employees, with respect to any claim or loss, including, but not limited to, attorney's fees, costs and expenses of litigation, claims and judgements in connection with any and all claims for damages of any kind which may arise, either directly or indirectly, out of the acts or omissions of Glen Ellyn, or its elected officials, officers, agents, employees, consultants or contractors, pursuant to this Agreement.

VI. Lombard Indemnification of Glen Ellyn

Lombard shall indemnify and hold harmless Glen Ellyn, and its elected officials, officers, agents and employees, with respect to any claim or loss, including, but not limited to, attorney's fees, costs and expenses of litigation, claims and judgements in connection with any and all claims for damages of any kind which may arise, either directly or indirectly, out of the acts or omissions of Lombard, or its elected officials, officers, agents, employees, consultants or contractors, pursuant to this Agreement.

V. No Waiver of Tort Immunity Defenses

Nothing contained in Sections III. or IV. above, or in any other provision of this Agreement, is intended to constitute, nor shall it constitute, a waiver of the defenses available to either of the Parties under the Illinois Local Governmental and Governmental Employees Tort Immunity Act (745 ILCS 10/1-101 *et seq.*) with respect to claims by third parties.

VI. Preambles and Exhibits. The preambles and Exhibits to this Agreement are hereby incorporated as if set forth fully herein.

VII. Authority. The respective officers of both Parties are herein authorized to take such acts and execute such documents as shall be required to implement this Agreement which is authorized under constitutional and statutory authority.

VIII. Term and Termination. This Agreement shall commence on its Effective Date (see Section XIII. below) and shall continue in full force and effect for ten (10) years, or until completion of the Project, with all costs paid by Glen Ellyn and reimbursements made in full by Lombard, whichever occurs first.

IX. Relationship of the Parties. Nothing in this Agreement shall be construed to consider either Party or its respective employees or agents as the agents or employees of the other Party. Nothing contained in or done pursuant to this Agreement shall be construed as creating a partnership, agency, joint employer or joint venture relationship between Glen Ellyn and Lombard. No Party shall become bound, with respect to third parties, by any representation, act or omission of the other Party. This Agreement is for the benefit of the contracting Parties only and is not intended to raise or acknowledge any duty regarding conduct or other form of liability as to third parties.

X. Entire Agreement. This Agreement sets forth all the covenants, conditions and promises between the Parties, represents the entire agreement between the Parties, and supersedes all previous communications or understandings whether oral or written. This Agreement may not be amended except by means of a written document signed by authorized representatives of both of the Parties.

XI. Provisions Severable. In the event any provision of this Agreement or the application of any such provision to any state of facts shall be declared to be illegal, unenforceable or contrary to public policy, then such provision or application, as the case may be, shall be null and void, but this Agreement, with such provision severed, shall continue in full force and effect as to all other provisions.

XII. No Assignment and Successors. No Party may assign any rights or duties under this Agreement without the prior express written consent of the other Party. This Agreement shall be binding upon the successors of the Parties' respective governing boards.

XIII. Compliance with All Laws. Glen Ellyn and Lombard shall at all times observe and comply with the laws, ordinances, regulations and codes of the Federal, State, County and other local governmental agencies which may in any manner affect the performance of this Agreement.

XIV. Governing Law. This Agreement shall be governed by the laws of the State of Illinois.

XV. Counterparts. This Agreement may be executed in counterparts, each of which shall constitute an original, but together shall constitute one and the same Agreement.

XVI. Effective Date. This Agreement shall be deemed dated and become effective on the date the last of the Parties signs as set forth below the signature of their duly authorized representatives.

XVII. Notice. Notice or other writings which either Party is required to, or may wish to, serve upon the other Party in connection with this Agreement shall be in writing and shall be delivered personally or sent by registered mail, return receipt requested, postage prepaid, addressed as follows:

If to Glen Ellyn: Village Manager
Village of Glen Ellyn
535 Duane Street
Glen Ellyn, IL 60137

If to Lombard: Village Manager
Village of Lombard
255 E. Wilson Ave.
Lombard, IL 60148

Or to such other address, or to such other and/or additional parties, as either Party may from time to time designate in a written notice to the other Party. Service by certified mail shall be deemed given on the third day following the mailing of said notice, and service by personal delivery shall be deemed given upon actual delivery.

VILLAGE OF GLEN ELLYN

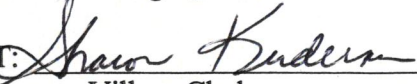
BY: 
Village President

ATTEST: 
Village Clerk

Dated: MAY 17, 2018

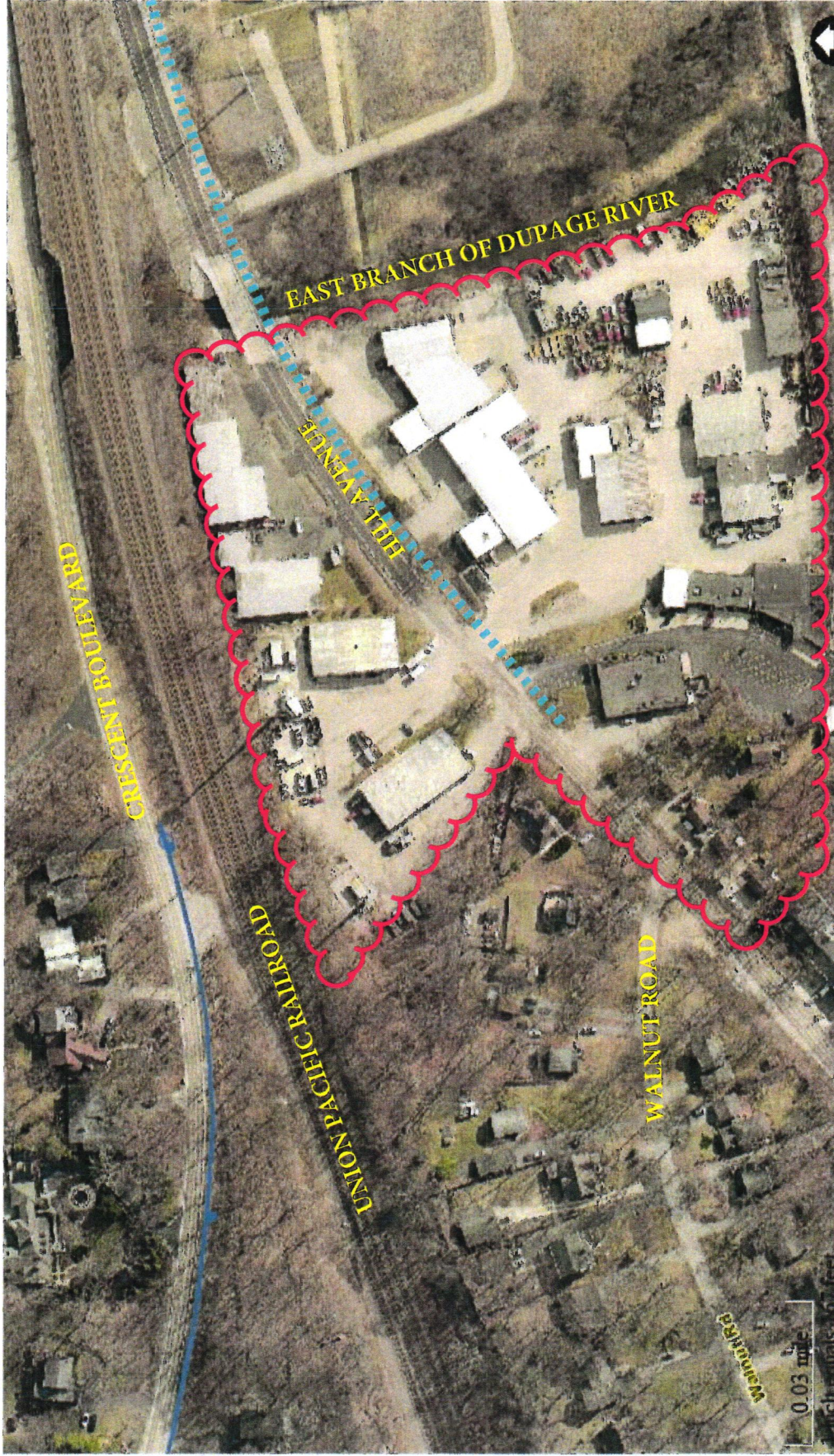
VILLAGE OF LOMBARD

BY: 
Village President

ATTEST: 
Village Clerk

Dated: May 3, 2018

EXHIBIT A - VILLAGE OF LOMBARD WATER MAIN AND SERVICE AREA



LEGEND

- VILLAGE OF GLEN ELLYN WATER MAIN ———
- VILLAGE OF LOMBARD WATER MAIN
- AREA SERVED BY VILLAGE OF LOMBARD WATER MAIN

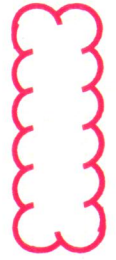
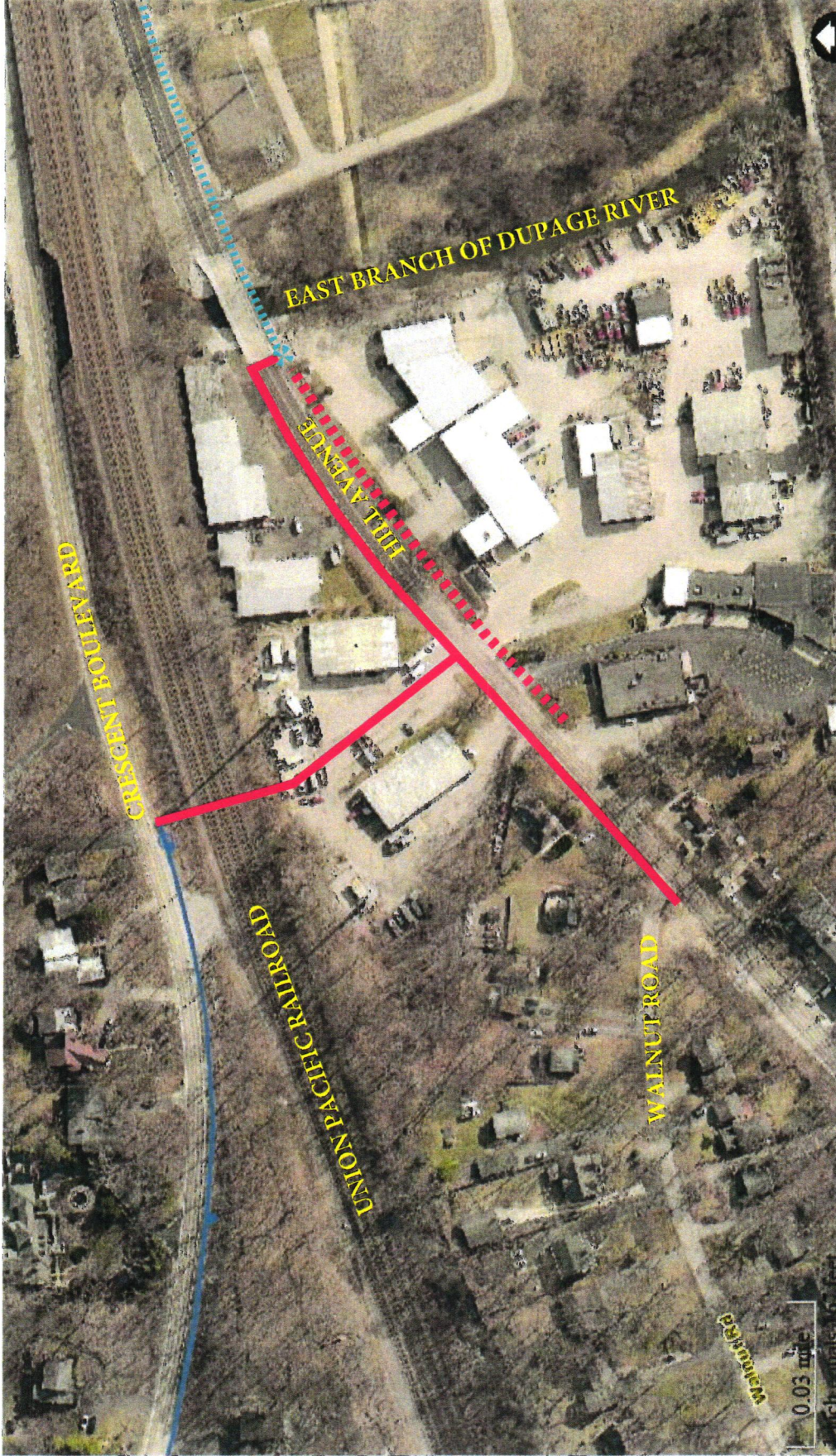


EXHIBIT B - GENERAL DEPICTION OF PROJECT



LEGEND

VILLAGE OF GLEN ELLYN WATER MAIN ———

VILLAGE OF GLEN ELLYN NEW WATER MAIN EXTENSION ———

VILLAGE OF LOMBARD WATER MAIN TO BE RETIRED - - - - -

VILLAGE OF LOMBARD WATER MAIN TO REMAIN AS SERVICE LINE TO CSO FACILITY>