

040296

DISTRICT 3

VILLAGE OF LOMBARD
REQUEST FOR BOARD OF TRUSTEES ACTION

For Inclusion on Board Agenda

 X Resolution or Ordinance (Blue) _____ Waiver of First Requested

Recommendations of Boards, Commissions & Committees (Green)
Other Business (Pink)

TO: PRESIDENT AND BOARD OF TRUSTEES
FROM: William T. Lichter, Village Manager
DATE: July 12, 2004 (COW) (B of T) **Date:** 7/22/04
TITLE: Intergovernmental Agreement with DuPage Water Commission – First Amendment

SUBMITTED BY: David A. Dratnol, P.E., Village Engineer *alsh*

BACKGROUND/POLICY IMPLICATIONS:

See attached Memo.

FISCAL IMPACT/FUNDING SOURCE:

Review (as necessary):

Village Attorney X _____ Date _____
Finance Director X *W. Leonard Flood* Date 7/13/04
Village Manager X *W. T. Lichter* Date 7/13/04

NOTE: All materials must be submitted to and approved by the Village Manager's Office by 12:00 noon, Wednesday, prior to the Agenda Distribution.



InterOffice Memo

To: William T. Lichter, Village Manager
From: David A. Dratnol, P.E., Village Engineer *DD*
Date: July 12, 2004
Subject: Intergovernmental Agreement with DuPage Water Commission – First Amendment

Attached is a resolution authorizing signature of the Village President and Clerk on a “First Amendment to Intergovernmental Agreement Concerning the Construction and Operation of a Joint Facility and Other Construction Facilities” between the Village of Lombard and the DuPage Water Commission. Also attached are three copies of the First Amendment to the Intergovernmental Agreement. The original IGA dated March 18, 2004, covered the design, construction and operation of a water main and metering station to serve the proposed Eisenhower Lane Reservoir Facility.

In the original agreement, the Village was responsible for the design and construction of its facilities and the DuPage Water Commission was responsible for the design and construction of their facilities; however, the Village would reimburse DuPage Water Commission’s costs for design and construction. Since the Village will be constructing its connection facilities in the same location as the DuPage Water Commission’s connection facilities, the DuPage Water Commission has agreed to allow the Village to design and construct their facilities to avoid duplication of construction activities and unnecessary public disruption. This First Amendment revises the original agreement to allow the Village to design and construct the DuPage Water Commission’s facilities.

Please present this First Amendment IGA to the Board of Trustees at their meeting on July 22, 2004 for approval. The Water Commission approved this item at their July 2004 meeting. If approved, please return all three signed copies to Public Works Engineering for further processing.

cc: File: WA 04-03

RESOLUTION

R _____ 05

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

WHEREAS, the Corporate Authorities of the Village of Lombard have received a First Amendment to Intergovernmental Agreement Concerning the Construction and Operation of a Joint Facility and Other Connection Facilities between the Village of Lombard and the DUPAGE WATER COMMISSION, as attached hereto and marked Exhibit "A"; and

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 in substantially the form attached hereto.

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

Adopted this 22nd day of July, 2004.

Ayes: _____

Nays: _____

Absent: _____

Approved this 22nd day of July, 2004.

William J. Mueller
Village President

ATTEST:

Barbara Johnson
Deputy Village Clerk

APPROVAL AS TO FORM:

Thomas P. Bayer
Village Attorney

FIRST AMENDMENT TO
INTERGOVERNMENTAL AGREEMENT
CONCERNING THE CONSTRUCTION AND OPERATION OF
A JOINT FACILITY AND OTHER CONNECTION FACILITIES

THIS FIRST AMENDMENT, made and entered into this _____ day of _____, 2004, by and between the DuPAGE WATER COMMISSION, a county water commission created and existing under the laws of the State of Illinois (the "Commission"), and the VILLAGE OF LOMBARD, a municipal corporation created and existing under the laws of the State of Illinois (the "Village"),

WITNESSETH:

WHEREAS, the Commission was formed and exists pursuant to Division 135 of Article 11 of the Illinois Municipal Code (65 ILCS 5/11-135-1 et seq.), and the Water Commission Act of 1985 (70 ILCS 3720/0.01 et seq.), for the purposes of securing an adequate source and supply of water for its customers; and

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

WHEREAS, the Village owns and operates a water distribution system (the "Village Water System"), which system is supplied with water by the Commission pursuant to the terms of that certain Water Purchase and Sale Contract dated as of June 11, 1986 (the "Charter Customer Contract") with the Commission, and which system is connected at four points to the Commission Waterworks System; and

WHEREAS, the Commission and the Village entered into an Intergovernmental Agreement Concerning the Construction and Operation of a Joint Facility and Other Connection Facilities to provide an additional point of connection between the Commission

Waterworks System and the Village Water System, which additional point of connection will be designed and constructed as a Joint Facility (the "Joint Facility Agreement"); and

WHEREAS, the Village is proceeding with the design and construction of extensions to the Village Water System to connect the Village Water System to the Joint Facility, which extensions will be located in substantially the same locations as the extensions to the Commission Waterworks System needed to connect the Commission Waterworks System to the Joint Facility; and

WHEREAS, the Village requested that the Joint Facility Agreement be amended to provide for the Joint Facility and a portion of the extensions to the Commission Waterworks System to be designed and constructed by the Village, instead of the Commission, to avoid duplication of construction activities and unnecessary public disruption;

NOW, THEREFORE, it is agreed by and between the Commission and the Village as follows:

1. Amendment to Subsection 2C. The introductory clause to Subsection 2C of Section 2, entitled "Construction and Operation of the Joint Facility and Other Connection Facilities," of the Joint Facility Agreement shall be and it hereby is amended in its entirety so that the introductory clause to said Subsection 2C shall hereafter be and read as follows:

"C. For purposes of this Agreement, the "Connection Facilities" shall mean the portions of the Commission Waterworks System constructed by the Commission and the Village to initially connect MS-14e to the existing Commission Waterworks System, which facilities are depicted in the conceptual plans attached as Exhibit B to this Agreement. The Connection Facilities include, among other items, the following:"

2. Amendment to Subsection 2D. Subsection 2D of Section 2, entitled "Construction and Operation of the Joint Facility and Other Connection Facilities," of the

Joint Facility Agreement shall be and it hereby is amended in its entirety so that said Subsection 2D shall hereafter be and read as follows:

“D. The Village shall be solely responsible for the costs in designing the Joint Facility and the Connection Facilities.

It is understood that the Commission will be the contracting party with the design engineer for the Phase I Pipeline Facilities under a task order to its April 13, 2000, Master Engineering Agreement with Alvord, Burdick & Howson, L.L.C., and the Commission will administer the task order for the benefit of both the Commission and the Village.

It is understood that the Village will be the contracting party with the design engineer for the Joint Facility and the Phase II Pipeline Facilities, and the Village will administer the design contract for the benefit of both the Commission and the Village. The engineering design, plans, and specifications for the Metering Station and the Phase II Pipeline Facilities shall incorporate the design criteria, standards, and base technical specifications and details provided by the Commission, including without limitation requirements for separation of high and low voltage cables in different conduits, separation of conduits and rebar before concrete pours, and 10” Turbo maximum size meters manufactured by Sensus only, as such design criteria, standards, and base technical specifications and details provided by the Commission may be supplemented with additional technical specifications as may be required for the Joint Facility and the Phase II Pipeline Facilities. 30%, 60%, 90%, and 100% final engineering design, plans, and specifications for the Metering Station and the Phase II Pipeline Facilities shall be submitted to the Commission for review and approval by the Commission and/or its consulting engineers. The Village will consult with the Commission to keep the Commission advised as to the progress of the design work and to address issues of mutual concern regarding the details of such design work.

The final design of the Joint Facility and the Connection Facilities shall be subject to the review of both the Commission and the Village and subject to the approval of the Commission to the extent of the Metering Station and the Pipeline Facilities, the Village to the extent of the Village PAS, and both the Commission and the Village to the extent of the common areas of the Joint Facility. For the purposes of this Agreement, the common areas of the Joint Facility shall include those portions of the Joint Facility, such as the structure and area grounds, which serve the needs of both the Commission and the Village.”

3. Amendment to Subsection 2E. Subsection 2E of Section 2, entitled “Construction and Operation of the Joint Facility and Other Connection Facilities,” of the Joint Facility Agreement shall be and it hereby is amended in its entirety so that said Subsection 2E shall hereafter be and read as follows:

"E. The Village shall be solely responsible for the costs in constructing the Joint Facility and the Connection Facilities.

The Commission shall issue a Work Authorization Order under its existing Quick Response Contract QR-6/02 with George W. Kennedy Construction Co., Inc. ("Contract QR-6/02") for the construction of the Phase I Pipeline Facilities (the "Work Authorization Order"). The cost of the Phase I Pipeline Facilities shall be separately accounted for under Contract QR-6/02.

The Village shall solicit bids for the construction of the Phase II Pipeline Facilities and the Joint Facility, including all equipment and appurtenances necessary for the Metering Station and the Village PAS. The Commission's standard form of bidding and construction contract documents shall be used and the cost of the Metering Station, the Phase II Pipeline Facilities, the Village PAS, and the common areas of the Joint Facility shall be separately identified in the bidding and construction contract documents. In addition, the bidding and construction contract documents shall contain the terms and conditions set forth on Exhibit D attached hereto and by this reference incorporated herein and made part hereof.

The Commission agrees to administer the Work Authorization Order, and the Village agrees to solicit, award, and administer all contracts for the Phase II Pipeline Facilities and the Joint Facility, in the best interest of both the Commission and the Village and to consult with, and keep advised, officials of the Commission regarding the progress of the work and any problems encountered or changes recommended. Both the Commission and the Village must agree to the award of any contract for the construction of the Phase II Pipeline Facilities and the Joint Facility. Upon approval of both the Commission and the Village, the Village shall enter into a construction contract(s) with the selected contractor(s) for the construction of the Phase II Pipeline Facilities and the Joint Facility, and shall administer such construction contract(s) in conformance with this Agreement.

Commission representatives shall have full and complete access to the work sites at all times for purposes of supervising and inspecting the construction of the Phase II Pipeline Facilities and the Metering Station. No construction work on the Phase II Pipeline Facilities or the Metering Station shall be undertaken without the presence of such representatives unless authorized in advance by the Commission. All shop drawings, reports, permit applications, and other submittals submitted by the contractor(s) for the construction of the Phase II Pipeline Facilities and the Metering Station, and all work (including materials, equipment, and supplies) related to the Phase II Pipeline Facilities and the Metering Station, shall be subject to the prior examination, inspection, and approval by Commission representatives, including without limitation geotechnical inspections and approvals (e.g. compaction, soil bearing, concrete strength, etc.); structural inspections and approvals (e.g. inspection of rebar, especially where pipe wall sleeves are set, before concrete pour, etc.); rough-in electrical inspections and approvals (e.g. ground field installation before backfill); instrumentation inspections and approvals (e.g. SCADA antenna, ground field, radio signal strength at time of installation); piping and valve inspections and approvals (e.g. factory and field testing); meter

inspections and approvals (e.g. testing in Commission test bench); and regulatory inspections and approvals (e.g. IEPA operating permit application, disinfection, flushing, sampling, and laboratory testing required to place the Phase II Pipeline Facilities).

Commission representatives shall have the sole, full authority and right to direct the construction of the Phase II Pipeline Facilities and the Metering Station, and the Village and the contractor(s) for the construction of the Phase II Pipeline Facilities and the Metering Station shall diligently prosecute the construction of the Phase II Pipeline Facilities and the Metering Station pursuant to said direction. Whenever the contractor(s) for the construction of the Phase II Pipeline Facilities and the Metering Station disputes or objects to any requirement, direction, instruction, interpretation, determination, or decision affecting the Phase II Pipeline Facilities or the Metering Station, the Commission shall have the sole, full authority and right to resolve such dispute.

It is understood that, although the Village will not be a party to the Work Authorization Order and the Commission will not be a party to the construction contract(s) for the Phase II Pipeline Facilities and the Joint Facility, the Commission or the Village, as the case may be, will be designated as a beneficiary of any insurance, guaranty, or warranty required by the Work Authorization Order or the construction contract(s), as the case may be, and the Commission or the Village, and its officers, agents, and employees, as the case may be, shall be named as additional insureds on the construction contractors' general liability insurance required by Contract QR-6/02 or the construction contract(s) for the Phase II Pipeline Facilities and the Joint Facility, as the case may be. In addition, any change order, as well as final acceptance and approval of the completed Joint Facility and the Connection Facilities, shall be subject to the approval of the Commission to the extent of the Metering Station and the Pipeline Facilities, the Village to the extent of the Village PAS, and both the Commission and the Village to the extent of the common areas of the Joint Facility. Neither the Commission nor the Village shall be required to approve or accept any portion of the Joint Facility until all portions of the Joint Facility, including all punch list items, have been fully and properly completed."

4. Amendment to Subsection 2H. The introductory clause to Subsection 2H of Section 2, entitled "Construction and Operation of the Joint Facility and Other Connection Facilities," of the Joint Facility Agreement shall be and it hereby is amended in its entirety so the introductory clause to said Subsection 2H shall hereafter be and read as follows:

"H. Prior to the Village's solicitation of bids for the construction of the Joint Facility, the Village, without charge to the Commission, shall:"

5. Amendment to Subsection 2I. Subsection 2I of Section 2, entitled "Construction and Operation of the Joint Facility and Other Connection Facilities," of the Joint Facility Agreement shall be and it hereby is amended in its entirety so that said Subsection 2I shall hereafter be and read as follows:

"I. Upon acceptance and approval of the Joint Facility or the Phase II Pipeline Facilities, as the case may be, ownership of the Metering Station or the Phase II Pipeline Facilities, as the case may be, and a bill of sale therefor shall be conveyed to the Commission. Immediately following such conveyance, the Commission shall own and operate the Metering Station or the Phase II Pipeline Facilities, as the case may be; the Metering Station or the Phase II Pipeline Facilities, as the case may be, shall become the sole and exclusive property of the Commission; and the Commission shall have all duty, responsibility, and liability to maintain the Metering Station or the Phase II Pipeline Facilities, as the case may be, and the Village shall have no obligation or duty with respect thereto. Upon completion of the construction and installation of the Joint Facility, the Village shall maintain and repair the Village PAS and the common areas of the Joint Facility."

6. Amendment to Subsection 2L. The last sentence of Subsection 2L of Section 2, entitled "Construction and Operation of the Joint Facility and Other Connection Facilities," of the Joint Facility Agreement shall be and it hereby is amended in its entirety so that the last sentence of said Subsection 2L shall hereafter be and read as follows:

"The Village shall, and does hereby agree to, pay all expenses, including legal fees and administrative expenses, incurred by the Commission in defending itself with regard to any and all of the matters mentioned in this Subsection 2L except to the extent that said fees and expenses are recovered through insurance or indemnification provided to the Commission by the contractor used to construct the Phase I Pipeline Facilities."

7. Amendment to Subsection 3D. The first paragraph of Subsection 3D of Section 3, entitled "Legal Relationships and Requirements," of the Joint Facility Agreement shall be and it hereby is amended in its entirety so that the first paragraph of said Subsection 3D shall hereafter be and read as follows:

"D. Either the Commission or the Village may terminate this Agreement upon thirty (30) days advance written notice to the other, in the following situations:

- (i) In the event the Commission shall not have approved the final design of the Metering Station, the Phase II Pipeline Facilities, and the common areas of the Joint Facility on or before May 31, 2007.
- (ii) In the event the Commission and the Village are unable to agree on the award by the Village of a contract(s) for the construction of the Joint Facility and the Phase II Pipeline Facilities on or before May 31, 2007."

8. Amendment to Exhibit C. Exhibit C, entitled "Form of Metering Station Easement Agreement," to the Joint Facility Agreement shall be and it hereby is amended in its entirety so that said Exhibit C shall hereafter be and read as set forth in the Exhibit C attached to this First Amendment and by this reference incorporated herein and made a part hereof. Any and all references to said Exhibit C in the Joint Facility Agreement shall hereafter be deemed to refer to the Exhibit C attached hereto.

9. Amendment to add Exhibit D. The Joint Facility Agreement shall be and it hereby is amended to add a new Exhibit D, entitled "Special Terms and Conditions for the Bidding and Construction Contract Documents for the Metering Station and the Phase II Pipeline Facilities," to the Joint Facility Agreement, which new Exhibit D shall hereafter be and read as set forth in the Exhibit D attached to this First Amendment and by this reference incorporated herein and made a part hereof. Any and all references to said Exhibit D in the Joint Facility Agreement, as amended, shall hereafter be deemed to refer to the Exhibit D attached hereto.

10. Joint Facility Agreement in Full Force and Effect. In all other respects, the Joint Facility Agreement shall remain in full force and effect, and the Joint Facility Agreement shall be binding on both parties as hereinabove amended.

IN WITNESS WHEREOF, the DuPage Water Commission and the Village of Lombard have caused this First Amendment to be executed on their behalf by their duly authorized officers as of the day and year first above written.

DUPAGE WATER COMMISSION

Chairman

ATTEST:

Clerk

VILLAGE OF LOMBARD

President

ATTEST:

Deputy Village Clerk

EXHIBIT C

FORM OF METERING STATION EASEMENT AGREEMENT

DUPAGE WATER COMMISSION

METERING STATION

EASEMENT AGREEMENT
(Lombard MS-14e)

PERMANENT REAL ESTATE TAX INDEX NO. - - -

Prepared by and Mail to:

Maureen A. Crowley
Staff Attorney
DuPage Water Commission
600 East Butterfield Road
Elmhurst, Illinois 60126-4642
630-834-0100

METERING STATION
EASEMENT AGREEMENT
(Lombard MS-14e)

THIS EASEMENT AGREEMENT, made and entered into this ____ day of _____, 200_, by and between the DUPAGE WATER COMMISSION, a county water commission created and existing under the laws of the State of Illinois (the "Commission") and the VILLAGE OF LOMBARD, a municipal corporation created and existing under the laws of the State of Illinois and a customer of the Commission (the "Customer"),

WITNESSETH:

WHEREAS, the Commission and the Customer have entered into a certain Water Purchase and Sale Contract dated as of June 11, 1986 (the "Charter Customer Contract"), as supplemented by a certain Intergovernmental Agreement Concerning the Construction and Operation of a Joint Facility and Other Connection Facilities, dated as of March 18, 2004, and a First Amendment to the Intergovernmental Agreement Concerning the Construction and Operation of a Joint Facility and Other Connection Facilities , dated as of _____, 2004 (the "Joint Facility Agreement"); and

WHEREAS, the Joint Facility Agreement provides that the Customer is to furnish and install, and the Commission is to own, operate, maintain, and repair, certain equipment and devices, together with certain structures and portions of its water distribution main, including underground feeder pipe lines and related equipment, for properly conveying and measuring the quantity of Lake Michigan water delivered by the Commission to the Customer at the additional connection point provided for under the Joint Facility Agreement (collectively referred to as the "Metering Station"); and

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

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

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

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

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

WHEREAS, the Commission has duly adopted its Ordinance No. O-__-0__, being "An Ordinance Requesting the Intergovernmental Transfer of Easement Rights for the Lombard Metering Station MS-14e Site and Authorizing the Execution of the Lombard Metering Station Easement Agreement," pursuant to the Local Government Property Transfer Act, 50 ILCS 605/0.01 et seq.; and

WHEREAS, the Customer has duly adopted its Resolution No. _____, being "A Resolution Approving the Intergovernmental Transfer of Easement Rights to the DuPage

Water Commission,” pursuant to the Local Government Property Transfer Act, 50 ILCS 605/0.01 et seq.;

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and in the exercise of their powers and authority under the intergovernmental cooperation provisions of Article VII, Section 10 of the Illinois Constitution of 1970 and the Intergovernmental Cooperation Act, 5 ILCS 220/1 et seq., and other applicable authority, the Commission and the Customer hereby agree as follows:

1. The foregoing recitals are hereby incorporated herein as substantive provisions of this Easement Agreement.

2. The Customer hereby grants, conveys, warrants, and dedicates to the Commission, its successors and assigns, a perpetual easement to own, operate, maintain, test, inspect, remove, repair, and replace the Metering Station at, in, under, and upon the Metering Station Easement Premises, together with all reasonable rights of ingress and egress along or across any adjoining lands of, or under the jurisdiction and control of, the Customer. ***[The Customer hereby further grants, conveys, warrants, and dedicates to the Commission, its successors and assigns, a perpetual access easement upon, along, and across the real property legally described in Exhibit 3 attached hereto and by this reference incorporated herein and made a part hereof (the “Access Easement Premises”).]***

3. The Metering Station shall be not located, constructed, or maintained in any manner not in substantial conformity with Exhibit 2 without the express consent of the Commission.

4. The Commission shall exercise the easement rights hereby granted with due care, and shall not unreasonably interfere with, damage, or harm any Customer property located upon the Metering Station Easement Premises[, **the Access Easement Premises,**] or the Subject Property.

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

6. The Customer hereby reserves the right to use the Metering Station Easement Premises[, **the Access Easement Premises,**] and its adjacent property in any manner that will not prevent or interfere in any way with the exercise by the Commission of the rights granted hereunder; provided, however, that the Customer shall not in any manner disturb, damage, destroy, injure, obstruct, or permit to be obstructed the Metering Station Easement Premises [**or the Access Easement Premises**] without the express prior written consent of the Commission, nor shall the Customer permanently or temporarily improve, damage, or obstruct the Metering Station Easement Premises [**or the Access Easement Premises**] in any manner that would impair the exercise by the Commission of the rights hereby granted.

7. The Customer agrees to indemnify and defend the Commission with respect to any and all claims or damages to persons or property which may arise directly from the negligence of the Customer, or its agents or employees, in the initial installation of the Metering Station and in performing any work on the Metering Station Easement Premises[, **the Access Easement Premises, and the Subject Property**] in conjunction with its rights pursuant to Paragraphs 5 and 6 hereof, and, except as otherwise provided in the Joint Facility Agreement, the Commission agrees to indemnify and defend the Customer with

respect to any and all claims of damages to persons or property which may arise directly from the negligence of the Commission, or its agents or employees, in performing any work on the Metering Station Easement Premises[, *the Access Easement Premises, and the Subject Property*] in conjunction with its rights pursuant to Paragraphs 2 and 4 hereof.

The Customer shall provide to the Commission, and the Commission shall provide to the Customer, a certificate of insurance or proof of self-insurance coverage as evidence of its continuing ability to meet the obligation established in this Paragraph, and both shall maintain such coverage at all times.

8. This Easement Agreement shall constitute and stand in the place of all Customer permits required by the Commission or its contractor to own, operate, maintain, test, inspect, repair, remove, or replace the Metering Station at, in, under, and upon the Metering Station Easement Premises, and the Customer hereby agrees to execute any and all additional documents, approvals, waivers, or consents, if any, that may be reasonably necessary for the Commission to secure any permits required from any county, state, or federal agency for or in connection with owning, operating, maintaining, testing, inspecting, repairing, removing, or replacing the Metering Station.

9. In the event that the Charter Customer Contract is terminated without renewal with respect to the Customer, the Commission shall, within ninety (90) days, execute and deliver to the Customer an appropriate document evidencing the termination of this Easement Agreement and releasing the easement rights hereby granted. The Commission may, within said ninety (90) day period, in its own discretion, and at the Customer's expense, remove the Metering Station from the Metering Station Easement Premises. If the Commission fails to remove the Metering Station, as aforesaid, the Customer may take title to the Metering Station.

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

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

DUPAGE WATER COMMISSION

ATTEST:

By: _____
General Manager

VILLAGE OF LOMBARD

ATTEST:

[Deputy] Village Clerk

By: _____
President

EXHIBIT 1

LEGAL DESCRIPTION OF THE METERING STATION EASEMENT PREMISES

[TO BE SUPPLIED BY LOMBARD]

EXHIBIT 2

PLANS FOR THE LOCATION OF THE METERING STATION

[TO BE SUPPLIED BY LOMBARD]

EXHIBIT 3

LEGAL DESCRIPTION OF THE ACCESS EASEMENT PREMISES

[TO BE SUPPLIED BY LOMBARD--IF NECESSARY]

EXHIBIT 4

LEGAL DESCRIPTION OF THE SUBJECT PROPERTY

[TO BE SUPPLIED BY LOMBARD--IF NECESSARY]

STATE OF ILLINOIS)
) SS
COUNTY OF DUPAGE)

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

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

Notary Public

My Commission Expires: _____

STATE OF ILLINOIS)
) SS
COUNTY OF DUPAGE)

I, _____, a Notary Public in and for said County, in the State aforesaid, do hereby certify that _____, personally known to me to be the President of the Village of Lombard, a municipal corporation, and _____, personally known to me to be the [Deputy] Village Clerk of said Village, and personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that they signed, sealed, and delivered said instrument as their free and voluntary act, and as the free and voluntary act of said Village, for the uses and purposes therein set forth.

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

Notary Public
My Commission Expires: _____

EXHIBIT D

SPECIAL TERMS AND CONDITIONS FOR THE BIDDING AND CONSTRUCTION CONTRACT DOCUMENTS FOR THE METERING STATION AND THE PHASE II PIPELINE FACILITIES

The bidding and construction contract documents for the Metering Station and the Phase II Pipeline Facilities shall contain, at a minimum, the following special terms and conditions:

1. **DuPage Water Commission.**

The Village has entered into a contract with the DuPage Water Commission (the "Commission") for the construction by the Village of the Phase II Pipeline Facilities and the Metering Station. The Phase II Pipeline Facilities and the Metering Station will be operated and maintained by Commission personnel from the time said facilities first become operational. Accordingly, the Commission shall be reviewing, inspecting, and approving all Work associated with the Phase II Pipeline Facilities and the Metering Station, including Required Submittals, and will otherwise be directly involved in the Work. Contractor shall lend all reasonable assistance to the Commission in these endeavors and coordinate its activities in this regard. Any preconstruction conferences and any demonstrations, instructions or training to be provided for the operation of the facilities shall include Commission personnel.

Commission representatives shall have full and complete access to the Work Site at all times for purposes of supervising and inspecting the construction of the Phase II Pipeline Facilities and the Metering Station. No Work on the Phase II Pipeline Facilities or the Metering Station shall be undertaken without the presence of such representatives unless authorized in advance by the Commission. All Required Submittals and all Work related to the Phase II Pipeline Facilities and the Metering Station shall be subject to the prior examination, inspection, and approval by Commission representatives, including without limitation geotechnical inspections and approvals (e.g. compaction, soil bearing, concrete strength, etc.); structural inspections and approvals (e.g. inspection of rebar, especially where pipe wall sleeves are set, before concrete pour, etc.); rough-in electrical inspections and approvals (e.g. ground field installation before backfill); instrumentation inspections and approvals (e.g. SCADA antenna, ground field, radio signal strength at time of installation); piping and valve inspections and approvals (e.g. factory and field testing); meter inspections and approvals (e.g. testing in Commission test bench); and regulatory inspections and approvals (e.g. IEPA operating permit application, disinfection, flushing, sampling, and laboratory testing required to place the Phase II Pipeline Facilities in service).

Commission representatives shall have the sole, full authority and right to direct the construction of the Phase II Pipeline Facilities and the Metering Station, and the Village and the successful Bidder/Contractor shall diligently prosecute the construction of the Phase II Pipeline Facilities and the Metering Station pursuant to said direction. Whenever the successful Bidder/Contractor disputes or objects to any requirement, direction, instruction, interpretation, determination, or decision affecting the Phase II Pipeline Facilities or the Metering Station, the Commission shall have the sole, full authority and

right to resolve such dispute. In addition, any Change Order as well as Final Acceptance of the Work shall be subject to the approval of the Commission to the extent of the Metering Station and the Phase II Pipeline Facilities, and the Village and the Commission to the extent of the common areas.

2. **Subcontracting.**

All pipe installation Work is required to be performed with the successful Bidder's/Contractor's own personnel and under the management, supervision, and control of its own organization, unless otherwise approved by the Commission in writing.

3. **Permits.**

The successful Bidder/Contractor shall obtain, pay for, and furnish to the Commission copies of, all permits, licenses, and other governmental approvals and authorizations necessary in connection with the Work, including without limitation all bonds and insurance coverages requested in connection therewith.

4. **Connections to Commission Waterworks System.**

A. **Coordination.** In order to maintain an uninterrupted supply to the Commission Waterworks System, the successful Bidder/Contractor shall carefully schedule, plan, and coordinate with the Commission the construction of the connection to the Commission Waterworks System.

B. **Scheduling.** The successful Bidder/Contractor shall submit to the Commission for approval, prior to beginning Work, a detailed schedule for the construction of this connection. The schedule shall show not only the Work scheduled, but also the critical time required to provide the connection. This Work shall occur only between and including November 1 and March 1 of the year following the year in which such Work is commenced. This Work cannot occur at the same time as any other connection Work.

C. **Connection Work to Proceed 24 Hours Per Day.** After the necessary section of the Commission Waterworks System has been isolated by the Commission, the successful Bidder/Contractor shall proceed with the connection Work and shall Work continuously, 24 hours a Day, until the dewatering, installation of the connection, pressure testing, disinfection, and flushing are completed by the successful Bidder/Contractor so that the isolated section of the Commission Waterworks System may be put back into service as quickly as possible.

D. **Interruptions.** The successful Bidder/Contractor shall take all necessary precautions so that no interruption of water supply operations shall be caused, except that which is permitted by the Contract Documents. **THE SUCCESSFUL BIDDER/CONTRACTOR SHALL NOT OPERATE ANY EXISTING VALVES OR NEW VALVES WHICH CONNECT TO THE COMMISSION WATERWORKS SYSTEM.**

E. Isolation. The successful Bidder/Contractor shall verify with the Commission that the appropriate section of the Commission Waterworks System is isolated prior to the start of any connection Work.

F. Notice. The successful Bidder/Contractor shall notify the Commission a minimum of 72 hours prior to the start of any connection Work. Notice shall not be given by the successful Bidder/Contractor until all equipment, materials, and supplies required for the connection are delivered to the Work Site.

G. Cleanliness. The successful Bidder/Contractor shall take all precautions necessary to keep the interior of the isolated section of the Commission Waterworks System and the piping and valves and appurtenances to be installed as clean as possible.

H. Sequencing. The suggested sequencing for the connection is as follows:

i. After proper notification has been given to the Commission by the successful Bidder/Contractor, the Commission will isolate the portion of the Commission Waterworks System where the connection will be made.

ii. The successful Bidder/Contractor shall break into the isolated portion of the Commission Waterworks System and shall remove a portion of that piping, shall perform dewatering as needed, and install new piping and other pipe materials as needed and as shown on the Contract Drawings, including without limitation the removal and replacement of any existing valve.

iii. When the connection Work is completed, and the connection is chlorinated, tested, and approved for service by a certified laboratory, the Commission will place the isolated section of the Commission Waterworks System back into service.