

**WATER PURCHASE AND SALE CONTRACT  
BY AND BETWEEN  
VILLAGE OF BUFFALO GROVE AND COUNTY OF LAKE**

**THIS WATER PURCHASE AND SALE CONTRACT** (the “**Contract**”) is made and entered into as of, February 23, 2022, by and between the **VILLAGE OF BUFFALO GROVE, Illinois (“Village”)** and **COUNTY OF LAKE, ILLINOIS (“County”)**, and in consideration of the mutual covenants and agreements herein contained.

**SECTION 1 BACKGROUND**

A. The Village owns and operates a Village Waterworks System for the receipt of Potable Water and for the delivery of Potable Water to its residents and other Customers.<sup>1</sup>

B. The Village Waterworks System derives its water from Lake Michigan pursuant to a Water Allocation from the State of Illinois Department of Natural Resources.

C. The Village issued and sold, and may in the future issue and sell, Bonds from time to time during the term of this Contract in sufficient amounts for the payment of acquiring, designing, constructing, and maintaining the Village Waterworks System.

D. The County owns and operates the County Waterworks System for the delivery of Potable Water to its customers.

E. The County Waterworks System is currently supplied by water wells.

F. The County desires to purchase Potable Water from the Village, and the Village desires to sell Potable Water to the County, solely for the purposes set forth in and in strict accordance with the provisions of this Contract. The Village and the County acknowledge that this is not an exclusive contract for the sale and purchase of water to the County.

G. Pursuant to the Illinois Municipal Code, 65 ILCS 5/1-1-1 *et seq.* (2020), the Intergovernmental Cooperation Act, 5 ILCS 220/1 *et seq.* (2020), and Article VII, Sections 6 and

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<sup>1</sup> All capitalized words and phrases throughout this Contract shall have the meanings set forth in Section 2 hereof.

10 of the Illinois Constitution of 1970, the Village and the County are authorized to enter into this Contract.

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

I. In order for the County to utilize the Lake Michigan water that would be deliverable through the Village Waterworks System, the County is required to secure a Water Allocation for serving the Connection Area. The County's securing of such Water Allocation is a condition precedent to the County receiving, and the Village providing, Potable Water pursuant to this Contract.

## **SECTION 2 DEFINITIONS**

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

**"Bonds"** means Village Bonds and any revenue bonds issued by the County relating to the County Waterworks System.

**"Bond Ordinances"** means all of the respective bond ordinances and resolutions under which the Parties have or will authorize the issuance of, or issue, Bonds.

**"Connection Area"** means the area as depicted in Exhibit A, or as otherwise may be agreed upon by the Parties.

**"Connection Facilities"** means the Village Connection Facilities and the County System Connection Facilities.

**"Connection Facilities Concept Plan"** means the locational plans attached as Exhibit B to this Contract, which plans shall be the basis for the Construction Documents.

**"Construction Documents"** means the designs, plans, and specifications to be prepared in accordance with Section 9.A of this Contract.

**"Contract"** means this Contract.

**"County"** means the County of Lake.

**"County System Connection Facilities"** means those portions of the County Waterworks System to be used to connect the County Waterworks System existing as of the Effective Date of this Contract to the Village Waterworks System, which facilities are generally depicted in the Connection Facilities Concept Plan. The County System Connection Facilities include, among other items, the valves [and pressure adjusting station] described in this Contract and pipeline and equipment appurtenant thereto.

**"County Waterworks System"** means all of the County's facilities, including land; easements; rights-of-way over lands and waters; pumping facilities, wells, treatment facilities, storage facilities, metering stations, and other facilities; mains; and pipelines acquired and used (or to be used) for the purposes of transmitting and providing Potable Water; and operational systems for providing and managing the use of Potable Water to the County's customers within the Connection Area.

**"Customer"** means any person or entity to whom the Village directly sells Potable Water.

**"Day"** means any 24-hour continuous period commencing at 12:00 a.m. (midnight) local time.

**"Delivery Date"** means the date that the Village first delivers Potable Water to the County.

**"Effective Date"** means the last date of execution of the Contract by the Village and County.

**"Fiscal Year"** means the fiscal year of the Village.

**"Force Majeure"** means acts of God; strikes, lockouts, or other industrial disturbances; acts of a public enemy; orders of any kind of the Government of the United States, of the State of Illinois, or of any civil or military authority; insurrections; riots; acts of terrorism; epidemics;

pandemics; landslides; lightning; earthquakes; fires; hurricanes; storms; floods; washouts; droughts; arrests; restraints of government and people; civil disturbances; civil actions by third parties affecting or threatening to affect obligations or undertakings of any Party under this Contract; eminent domain actions by any Party necessary or convenient to effect any obligation or undertaking of any Party under this Contract; explosions, breakage, or accidents to machinery, pipelines, plants, canals, or tunnels; and inability on the part of the Village to deliver Potable Water hereunder, or of the County to receive Potable Water hereunder, on account of any other causes not reasonably within the control or ability to cure of the Party claiming such inability.

**“Maximum Water Supply Amount”** means the maximum amount of Potable Water that the Village shall be obligated to deliver to the County, and that the County shall be authorized to purchase from the Village, pursuant to this Contract, which amount shall not exceed 500,000 (Five Hundred Thousand) gallons per day, unless otherwise agreed in writing from time to time by the Village and the County.

**“Party”** or **“Parties”** means either the Village, the County or both, as appropriate.

**“Point of Delivery”** means the first valve immediately downstream from the metering station at which the Potable Water delivered to the County pursuant to this Contract leaves the Village Waterworks System and enters the County Waterworks System.

**“Potable Water”** means treated, filtered water drawn from Lake Michigan provided to the Village.

**“Rate”** means the customary and applicable rate for delivery of Potable Water established by the Village for a particular fiscal year.

**“Trustee”** means a trustee provided in a Bond Ordinance.

**“Village”** means the Village of Buffalo Grove, Illinois.

**“Village Bonds”** means the debt obligations, whether in the form of Village Revenue Bonds or other bonds, notes, or other evidences of indebtedness, to be issued by the Village in

an amount sufficient to pay the expected costs to complete all of the Village's obligations under this Contract, including, without limitation, costs of construction and professional services.

**"Village Connection Facilities"** means the portions of the Village Waterworks System to be constructed pursuant to this Contract by the County after approval by the Village to connect the County Waterworks System, which facilities are generally depicted in the Connection Facilities Concept Plan. The Village Connection Facilities include, among other items, the metering station and Supervisory Control and Data Acquisition ("SCADA") facilities described in this Contract and pipelines and equipment appurtenant thereto.

**"Village Revenue Bonds"** means all of the Village's debt obligations to which revenues from the Village Waterworks System are committed, whether in the form of bonds, notes, or other evidences of indebtedness, in whatever original principal amount, together with any such revenue obligations authorized by law to be issued by the Village from time to time and refunding revenue obligations issued to refund other such obligations.

**"Village Waterworks System"** means all of the Village's facilities, including land; easements; rights-of-way over lands and waters; pumping facilities, treatment facilities, storage facilities, metering stations, and other facilities; mains; and pipelines acquired and used for the purposes of transmitting Potable Water to the Village residents and Customers. The Village Waterworks System includes the metering station and all meters and other equipment located therein constructed as part of the Village Connection Facilities.

**"Water Allocation"** means an authorization to divert a specified quantum of Lake Michigan water for use as Potable Water pursuant to the Level of Lake Michigan Act, 615 ILCS 50/1 *et seq.* (2020), as amended from time to time; the Illinois Department of Natural Resources Rules and Regulations for the Allocation of Water from Lake Michigan, 92 Ill. Admin. Code Part 730, as amended from time to time; applicable Illinois Department of Natural Resources Decisions, as amended from time to time.

**"Well Water"** means either treated, filtered water or untreated, unfiltered water drawn from wells owned and, operated by the County.

### **SECTION 3 SUPPLEMENTAL WATER SUPPLY**

A. **Agreement to Sell and Purchase.** Subject to all provisions of this Contract, the Village shall sell and deliver to the County, and the County shall purchase and receive from the Village, an amount of Potable Water not to exceed 500,000 (Five Hundred Thousand) gallons per day. This amount includes municipal use, system leakage and metering losses located beyond the Point of Delivery. The Village's obligation to the County to deliver Potable Water hereunder shall be limited to this amount.

B. **Beginning of Obligations to Deliver and Receive Potable Water.** The Village shall be obligated to deliver Potable Water to the County Waterworks System, and the County shall be obligated to receive at the County Waterworks System, Potable Water delivered by the Village immediately after: (i) the County has secured a Water Allocation sufficient to serve the Connection Area in accordance with this Contract; and (ii) completion of construction of the Point of Delivery and any other County System Connection Facilities and any Village Connection Facilities and inspection and approval for operation thereof by the Village and any other regulatory agency (the "**Commencement Date**"). This paragraph includes any water used to test or prepare the County System Connection Facilities.

C. **Limits on Supply.** The Village shall use its best efforts to furnish Potable Water to the County as hereinabove provided, but the County acknowledges and agrees that the Village's obligation hereunder is limited by:

- i. The amount of Potable Water available to the Village from time to time;
- ii. The County securing a Water Allocation for the Connection Area, as well as the continuation or diminishment of such Water Allocation, as governed by 615 ILCS 50 and any subsequent administrative rulings issued by the State of Illinois and/or its departments;

iii. The continuation or diminishment of the Village's Lake Michigan Water Allocation as governed by 615 ILCS 50 and any subsequent administrative rulings issued by the State of Illinois and/or its departments;

iv. Water supply curtailment by the Northwest Water Commission or the City of Evanston (as the suppliers of the Village Waterworks System), during urgent or emergent conditions;

v. The capacity of, and any risk of harm to, the Village Waterworks System due to the furnishing of Potable Water;

vi. Ordinary transmission loss, including standard metering error, between the Village's source of supply and/or the Point of Delivery to the County Waterworks System;

vii. The Provisions of this Contract; and

viii. Force Majeure.

D. Additional Subsequent Customer. The County acknowledges that the Village may enter into contracts for the sale by the Village of Potable Water to Customers other than the County. The Parties acknowledge that the rates for the sale of Potable Water in such contracts may affect the rates charged to the County pursuant to this Contract; provided, however, that the Village acknowledges and agrees that the rates charged to the County shall be no higher than the rates charged to such other Customers.

E. Emergency or Maintenance Stoppage or Flow Reduction. The Village undertakes to use reasonable care and diligence to provide a constant supply of Potable Water as herein provided, but reserves the right at any time to cease or reduce the flow of Potable Water in its mains for emergency and maintenance purposes. The Village shall give notice not less than 48 hours in advance of any stoppage for scheduled maintenance purposes and it shall give such notice as is reasonable under the particular circumstances of any cessation or reduction of flow for emergency purposes. The Village shall provide as much notice as practical where the flow of water is expected to be reduced temporarily.

F. Limits on Use. Potable Water delivered by the Village to the County pursuant to this Contract shall be used solely for the purpose of resale by County for use within the Connection Area. Neither the County nor any customer of the County shall sell or resell Potable Water to anyone outside the Connection Area, or for use outside of the Connection Area, without the written approval of the Village.

#### **SECTION 4 QUALITY; DELIVERY; STORAGE; DISTRIBUTION; CONSERVATION**

A. Water Quality. The Village shall supply the County with Potable Water of a quality commensurate to that furnished to the Village's residents. The Village bears no responsibility for the contamination of Potable Water or deterioration of water quality occurring beyond the Point of Delivery to the County Waterworks System.

B. Maintenance of System; Water Quality; Prevention of Waste. The County shall operate the County Waterworks Systems in such a manner as at no time to place the Village Waterworks System in jeopardy of failing to meet (i) the regulations of any federal, State of Illinois, or local agency or governmental authority having jurisdiction over the operation of the Village Waterworks System or (ii) the commitments the Village has to its residents and to its water suppliers. The County shall notify the Village immediately of all emergency and other conditions that may directly or indirectly affect quantity or the quality of the Potable Water to be received under this Contract or the Village Waterworks System or water supply. The County further agrees to take reasonable measures to conserve water.

C. No Use of Wells and Well Water. The County warrants and represents that upon receiving water pursuant to this Contract it will not distribute well water through the County Waterworks System to its Potable Water customers in the Connection Area and will not do so in the future without the written consent of the Village.

D. Surges and Back-Flows. The County's operation of the County Waterworks System, including, without limitation, its pressure adjusting stations, shall not cause surges or back-flows into the Village Waterworks System, and any connection between the Village



Connection Facilities and/or Village Waterworks System and the County System Connection Facilities shall be provided with air gap protection. The Village shall not be responsible for any damage to the County Waterworks System caused by the design, operation, or maintenance of the County Waterworks System.

E. County Waterworks System Pressures. The County shall be solely responsible for delivering Potable Water to its customers at pressures required or necessary to make such delivery.

F. Rate of Withdrawal. The County will take Potable Water at the most uniform and continuous rate of withdrawal practicable.

G. Connection to Transmission Mains. Except for the Connection Facilities, the County shall not construct or install, nor permit to be constructed or installed, any taps from or connections to the Village Waterworks System. Such prohibited taps and connections shall include, without limitation, distribution mains, valves, fire hydrants and service lines. Nor shall County construct taps on the County Waterworks System within sixty feet (60') of the Point of Delivery, without written consent of the Village.

H. County System Connection Facilities. The County, at its own expense and pursuant to the schedule established by this Contract, shall site, design, construct, operate, maintain, and when necessary replace the County System Connection Facilities in general conformity with the Connection Facilities Concept Plan. Construction Documents for the County System Connection Facilities, and any future modifications thereof (except for minor field variations occurring in the ordinary course of installing or repairing the County System Connection Facilities), shall be submitted in advance of construction or modification to the Village for review and approval in accordance with Section 9.A of this Contract.

## **SECTION 5 MEASURING EQUIPMENT**

A. Metering Station.

i. Construction of Metering Station. The County shall, pursuant to the schedule established by this Contract, furnish and install the metering station serving the Point of Delivery containing the necessary equipment and devices of a type meeting the standards of the American Water Works Association and the Ordinances of the Village, and as determined in the sole discretion of the Village, for measuring properly the quantity of Potable Water delivered under this Contract, including all structures as the Village shall deem necessary to house such equipment and devices. Such furnishing and installing of the metering station shall be done in substantial conformity with the Construction Documents, as such Construction Documents may be revised by mutual agreement of the Village and the County. After construction is completed by the County, the County shall convey to the Village, and the Village shall own, operate, maintain, and replace such metering station and all equipment and structures related thereto as part of the Village Connection Facilities.

ii. Site of Point of Delivery Metering Station. The metering station for the Point of Delivery shall be located within the Connection Area in a specific location to be mutually determined by the Village and the County. Water shall be delivered at atmospheric pressure such that an air gap exists between the Village Waterworks System and the County System Connection Facilities.

iii. Access by Village. The Village shall have access to the metering station for examination and inspection in a manner to be mutually agreed by the Parties. The reading of the meters for billing purposes, and the calibration and adjustment of the meters and other equipment in the metering station pursuant to Section 5.C, shall be done only by the employees or agents of the Village at the cost of the County.

iv. Meter Reading. The Village intends to read the meters in the metering station on the first day of each month. Reads may be accomplished through the Village's remote advanced metering infrastructure (AMI) system in lieu of actual site visits.

B. Records. For the purpose of this Contract, the official record of readings of each meter at the metering station shall be the handwritten journal or other handwritten or electronic record book of the Village in its office in which the records of the employees or agents of the Village who take the readings are or may be transcribed or entered. Upon written request of the County, the Village will give the County a copy of such handwritten journal or electronic record book, or permit the County to have access thereto in the office of the Village during regular business hours.

C. Calibration. The Village shall calibrate its meters at least once in each Fiscal Year measuring the Potable Water delivered to the County Waterworks System. If requested in writing by the County to do so, said calibration shall be in the presence of a representative of the County, and the Village and the County shall jointly observe any adjustments that are made to the meters in case any adjustments shall be necessary. If any check meters have been installed, then such check meters shall be calibrated by the County, if requested in writing by the Village to do so, at least once in each Fiscal Year in the presence of a representative of the Village, and the Village and the County shall jointly observe any adjustments that are made to the check meters in case any adjustments shall be necessary.

D. Check Meters. The County, at its option and its own expense, may install and operate a check meter to check each meter installed by the Village. Notwithstanding the foregoing, the measurement of Potable Water for purposes of this Contract shall be solely by the Village's meters, except in the cases hereinafter specifically provided to the contrary. All check meters shall be of standard make and shall be subject to inspection and examination by any employee or agent of the Village at all reasonable times following notice to the County. The calibration and adjustment of check meters shall be made only by the County, except during any period when a check meter may be used under the provisions hereunder for measuring the amount of Potable Water delivered to the County, in which case the calibration and adjustment of

such check meter shall be made by the Village in the same manner as if such check meter had been furnished and installed by the Village.

E. Meter Malfunctions. If the Village or the County at any time observe a variation between a meter and a check meter or any evidence of meter malfunction, such Party shall promptly notify the other Party; the Village and the County shall then cooperate to procure an immediate calibration test and such adjustment, replacement, or other work necessary to return such meter to accuracy. The Party who discovers such variation or malfunction shall give the other Party notice not less than 72 hours prior to the time of any test of any meter (which tests shall be conducted, if practical, during normal working hours) so that the other Party may conveniently have a representative present. If such representative is not present after the required notification at the time set in such notice, calibration and adjustment may proceed in the absence of said representative notwithstanding any other provision of this Subsection. If the percentage of inaccuracy of any meter is found to be in excess of two percent between the check meter and the Village meter, registration thereof shall be corrected by agreement of the Village and County based upon the best data available, for a period extending back to the time when such inaccuracy began if such time is ascertainable, or for a period extending back one-half of the time elapsed since the last date of calibration (but in no event further back than a period of six months) if such time is not ascertainable.

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

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 calculation against the meter data, by estimating the volume of water that entered the County reservoir through the County's SCADA data for reservoir level and calculations using the size and shape of that reservoir; or

iii. If the error is not ascertainable by calibration tests or mathematical calculation or volume estimates in the reservoir, by estimating the quantity of delivery by considering deliveries during preceding periods under similar conditions when the meter or meters were registering accurately. During any period of such disagreement, the Village's estimate of water delivered shall be used for the purpose of computing payments due under Section 7 of this Contract, and any adjustments based upon later resolution of such disagreement shall be made by appropriate adjustments to the County's future payments pursuant to Section 7.

F. Removal of Metering Station. At any time after 90 days following the termination of this Contract without renewal, the Village, at its own expense and in its discretion, may remove the metering station, including equipment, and any SCADA antennas and appurtenant facilities included among the Village Connection Facilities, and shall release any perpetual easements therefor.

G. Removal of Transmission Mains. Within 120 days after the termination of this Contract without renewal, the County, at its own expense, shall remove or abandon in place any County transmission mains and other equipment and appurtenances owned by the County that are located on Village property. Any proposal by the County to abandon in place shall be subject to the prior review and approval by the Village. The County shall be solely responsible for completing all restoration work necessary as a result of the removal of the same.

H. Meters for County Customers. The Village shall have no responsibility for ensuring that the County customers have operable water meters meeting the standards of the American Water Works Association.

I. Right of Inspection. The Village reserves the right to inspect the property of the County System Connection Facilities to ensure that the facilities are being operated consistent with the terms of this Contract, including but not limited to inspections to ensure there are no cross connections that threaten potential contamination to the Village Waterworks System and to ensure that the Village Waterworks System is otherwise fully in accordance with state and federal law. Such inspections shall occur following notice to the County and at a mutually acceptable time during ordinary business hours. If the inspection discloses any code violations or threats to the Village Waterworks System, the Village shall deliver the County a notice at the address listed in Section 20 hereof of the Village's intention to shut off the supply of water to the County at the expiration of 48 hours after giving such notice unless within the 48 hour period the County shall cure said threats to the Village Waterworks System. The foregoing notwithstanding, in the event such threats to the Village Waterworks System constitute an emergency, the notice required of the Village shall be no more than is reasonable under the circumstances.

#### **SECTION 6 UNIT OF MEASUREMENT**

The unit of measurement for Potable Water delivered hereunder shall be gallons of water, U.S. Standard Liquid Measure, and all measuring devices shall be so calibrated unless the Village and the County agree otherwise in writing. Should it become necessary or desirable to use other units of measurement, the basis of conversion shall be that 7.48 gallons is equivalent to one cubic foot.

#### **SECTION 7 RATES AND TERMS OF PAYMENT**

A. Rate. The Rate to be charged to the County for the provision of Potable Water shall be based on actual monthly usage by the County and shall be the lowest rate established from time to time by the Village for the provision of Potable Water to its residents. Provided, however, that, if the Village adjusts its residential rates to incorporate other charges or services unrelated to the provision of Potable Water, the Rate charged to the County shall be that portion of the residential rate related solely to the provision of Potable Water. Provided further that any

usage by the County in excess of the Maximum Water Supply Amount shall be charged an additional \$.10 (ten cents) on said Rate.

B. Adjustments to Rate and Fixed Facility Fees. Rates and Fixed Facility Fees (as described in Section 7.C) will be examined by the Village and shall be subject to annual adjustment by the Village. The Village shall set the Rate and Fixed Facility Fees in conformity with the standards set forth in Section 7.J of this Contract. Any such adjustments in Rate or Fixed Facility Fees will not be effective until the next applicable billing period commencing not more than ninety (90) days after the Village approves such adjustment; provided, however, that, if the Village does not notify the County of any such adjustments within 10 days after their approval (an "**Adjustment Notice**"), the aforementioned 90-day period shall be calculated from the date of the Adjustment Notice rather than the date of approval of the adjustment. Such adjustments may be made without the need for hearings, but:

1. Within 15 days after the delivery of an Adjustment Notice, the County shall notify the Village whether it intends to undertake a rate review (a "**Review Notice**"). A Review Notice shall be delivered in accordance with Section 20.B of this Contract.
2. The County may, within 45 days after the Review Notice, deliver to the County its own study regarding any adjustment to the Rate or Fixed Facility Fee (a "**Secondary Rate Study**"). Upon timely delivery of a Secondary Rate Study from the County, the Village agrees to consider such Secondary Rate Study and take action either to re-affirm, ratify, modify, or postpone the effective date of such adjustments in either the Rate, Fixed Facility Fee, or both.

C. Fixed Facility Fee. A monthly fee shall be charged to the County based on the size of the water meter installed in the metering station included among the Village Connection Facilities. The monthly Fixed Facility Fee shall be charged at the lowest rate established from time to time by the Village for multifamily residential users, commercial users, or industrial users located within the Village (as defined in the Village's municipal code) with comparably sized meters. To the extent that the County's water meter is not comparable in size to the meters serving any multifamily residential users, commercial users, or industrial users located within the Village, the monthly Fixed Facility Fee charged to the County shall be proportionate to the difference in

meter sizes. For illustration purposes, if the County water meter is 4" in size and the next largest meter among multifamily residential users, commercial users, or industrial users located within the Village is 2", the monthly Fixed Facility Fee charged to the County shall not be greater than twice the lowest Fixed Facility Fee charged to multifamily residential users, commercial users, or industrial users located within the Village with 2" meters.

D. Reserved.

E. Bills and Due Date. The Village shall render bills to the County bi-monthly based upon:

- (i) Fixed Facility Fees incurred; and
- (ii) charges based on actual volume of Potable Water delivered by the Village, during the relevant billing period pursuant to this Contract. Payment on bills rendered by the Village shall be due from the County within 45 days after delivery.

F. Disputed Payments. If the County desires to dispute any payment, or part thereof, due or claimed to be due under this Contract, the County shall nevertheless pay the full amount of any such payment when claimed by the Village to be due and shall provide written notification to the Village that charges are disputed, the grounds for dispute, and the amount in dispute, by the later of (i) the due date of such payment, or (ii) 45 days after the date that the County is reasonably informed of the circumstances giving rise to such dispute. No adjustment or relief on account of any disputed charges shall be made unless disputed charges are the subject of such notice within the time herein specified. It is expressly understood and agreed that no dispute over payments due or claimed to be due under this Contract shall be referred to arbitration for review or settlement. Upon receipt of a notification of dispute, representatives of the Village shall meet with representatives of the County to resolve such dispute. In the event the dispute is resolved in favor of the County, a credit will be made on the next bill of the County. In the event that the dispute is not so resolved, the County shall have the right to seek redress in the Circuit Court of Lake County, Illinois.



G. Overdue Payments. If the County shall fail to make any payment required under this Contract on or before its due date, and after notice and an opportunity to cure as set forth in Section 19.A.i of this Contract has been exhausted, the Village shall have the right to exercise any or all of the following three remedies:

i. Interest. The Village, at its option and in its discretion, may collect from the County, and the County shall pay to the Village, interest on the amount of such payment, at a rate of nine percent (9%) per annum or the rate generally imposed upon other Customers of the Village, whichever is less. Such interest shall accrue and shall be compounded on a monthly basis from the date such payment becomes due until paid in full with interest as herein specified.

ii. Reduction or Discontinuance of Delivery. If such payment is not made by the County within 30 days after the date such payment becomes due, then the Village, at its option and in its discretion, and whether or not such payment is disputed, may reduce or discontinue delivery of Potable Water to the County Waterworks System until the amount due to the Village is paid in full with interest as herein specified. The Village shall give notice to the County of its intention to reduce or discontinue delivery of Potable Water in accordance with this Subsection, which notice shall be delivered to the County not less than 10 business days prior to such event. If the County so requests in writing prior to the time for reduction or disconnection of service, the Village shall provide the County an opportunity for a hearing, and no reduction or discontinuance of service shall occur sooner than 10 business days after the Village notifies the County of the outcome of such hearing. If the Village reduces or discontinues the delivery of water pursuant to this Subsection, the County shall continue to be liable to make all payments for any water used in accordance with this Contract.

iii. Security Deposit.

a. Purpose. If the County is at any time in default on any payment due under this Contract and the default is not cured within 65 days after the due date of the defaulted payment, then the Village, at its option and in its discretion, may require County, as a further

obligation under this Contract, to deposit in a separate interest bearing account in the Village's name, with authorized signatories as designated by the Village's Manager, a sum of money in a reasonable amount determined by the Village (but in no event more than the amount due from the County during the four-month period preceding such default), as security for the payment of the County's obligations hereunder. The County's compliance with the Village's demand for such a security deposit shall be a condition precedent to the curing of such County's default and the restoration of the Potable Water service to the County Waterworks System, if such Potable Water service has been reduced or discontinued by reason of such default.

b. Use; Restoration. The security deposit or any part thereof may be applied, at the Village's option and in its discretion, to any subsequent default by the County in any payments due under this Contract. If so applied, the County shall provide funds immediately to restore the security deposit to the amount required by the Village.

c. Return. At the earliest of the end of the term of this Contract, or a term of two years after the curing of the most recent default by the County, or such earlier time that the Village at its option and in its discretion may determine, any security deposit with all accrued interest shall be returned to the County if the County has performed all its obligations under this Contract.

H. Beginning of Obligation to Pay. Notwithstanding any other provision of this Contract, the County's obligation to make any and all payments under this Contract shall begin with the issuance by the Village of the first bill issued after the first delivery of water to the County Waterworks System or any portion thereof. This obligation includes, but it not limited to, any water used to test or prepare the County Waterworks System.

I. Rate Agreed to be Reasonable. The County agrees that it has had an opportunity to evaluate the Rates to be charged under this Contract. The County further unconditionally agrees that the initial Rates in this Contract are reasonable and non-discriminatory, and the

County hereby expressly waives any and all claims challenging the initial Rates and initial Fixed Facility Fees in any way.

J. Village Charges and Rates Covenant. The Village hereby covenants at all times to establish such charges and rates for water supplied to the County as will be sufficient: (1) to pay the costs of operation and maintenance of the Village Waterworks System; (2) to provide an adequate depreciation fund for the Village Waterworks System as determined by the Village on the basis of its statutory duties and its obligations under the Bonds and ordinance or ordinances authorizing the issuance of the Bonds; (3) to pay the principal of, at maturity or pursuant to mandatory redemption requirements, premium, if any, and interest on the Bonds; (4) to comply with the covenants of the ordinance or ordinances authorizing the issuance of the Bonds; and (5) to carry out reasonable and necessary undertakings to maintain the safety and reliability of the Village Waterworks System.

For purposes of this paragraph J, a "sufficient" amount shall mean an amount adequate (but not more than reasonably necessary), when taken together with any and all other amounts available, in the reasonable discretion of the Village, to enable the Village to meet its obligations and responsibilities as they come due, including without limitation the making of all deposits required to be made under the ordinance or ordinances authorizing the issuances of the Bonds and for maintenance of a reserve fund.

K. County Charges and Rates Covenant. The Village acknowledges that the County has the independent right to establishes rates, fees, and charges for its customers within the Connection Area. In setting such rates, fees, and charges, the County hereby covenants that they will be sufficient at all times (1) to pay the costs of operation and maintenance of County Waterworks System, (2) to provide an adequate depreciation fund therefor, (3) to pay the principal of and interest on all County Bonds payable from the revenues of the County Waterworks System, (4) to pay the charges and rates established by the Village for the sale of water by the Village to the County. The County agrees to approve initial rates sufficient to satisfy this rate covenant not

later than 35 days after execution of this Contract and shall file its rate ordinances with the Village within 35 days after adoption.

L. Character of Payment Obligations as Water Revenue Obligations. This Contract shall not be construed to constitute an indebtedness of the County within the meaning of any statutory or constitutional limitation. It is expressly understood and agreed that all payments to be made hereunder by the County may be required to be made only from revenues to be derived from the operation of its County Waterworks System, and this Contract shall be a continuing, valid and binding obligation of the County payable from such revenues throughout the term hereof. Without in any manner limiting the foregoing provisions of this paragraph L, it is also expressly understood and agreed that the aforesaid revenues from the operation of the said County Waterworks System shall remain available for payments due or claimed to be due under this Contract without regard to any designation of such revenues by the County from time to time as operating revenue, retained earnings, reserves, surplus or otherwise. Nothing in this Paragraph L or this Contract shall, however, prohibit the County from using any other legally available funds for payments due hereunder.

M. Character of Payment Obligations as Operating Expenses. Inasmuch as obtaining water is an essential item of expense of a waterworks system, County hereby represents and covenants that all payments required to be made by it pursuant to the provisions of this Contract shall constitute operating expenses of the County Waterworks System and that such payments will constitute operation expenses as to any and all revenue bonds of the County which are supported in whole or in part by a pledge of the revenues of its County Waterworks System, with the effect that such County's obligation to make payment from its water revenues under this Contract has priority over its obligation to make payments of the principal or any interest on any such bonds which are or will be supported in whole or in part by a pledge of that County's Waterworks System revenues. Consistent with this paragraph M, County hereby covenants and agrees that from and after the date of this Contract, any ordinance or resolution to be passed by

it authorizing the issuance of County obligations to be paid from the revenues of its County Waterworks System shall expressly provide that the revenues of the County Waterworks System may be used to pay the principal of and interest on such obligations only to the extent that those revenues exceed amounts required to pay the operating expenses of the County Waterworks System, including all payments to be made by it under this Contract regardless of whether water is being delivered or is ever delivered to the County hereunder. Without in any manner limiting the foregoing provisions of this paragraph M, it is also expressly understood and agreed that the obligation of the County under this Contract shall be enforceable against and collectable from any monies from time to time available in any accounts or funds, including reserve and surplus accounts, maintained by the County in connection with the County Waterworks System.

#### **SECTION 8 SPECIAL CONDITIONS AND COVENANTS**

A. No Liability for Delay. The County acknowledges and agrees that the Village shall not be liable to the County or to any of the County's customers for any damages occasioned by or in any way related to delay or failure in the delivery of Potable Water to the County Waterworks System, except if the Village willfully delays or discontinues water service in breach of this Contract.

B. Title to Potable Water. Title to all Potable Water supplied hereunder shall remain in the Village to the Point of Delivery and thereupon shall pass to the County.

C. Covenants to Be Set Out in Bond Ordinances. The County acknowledges and agrees future Bond Ordinances of the Village may grant to bondholders certain rights and duties of the Village, and that such bondholder rights may be included in any subsequent Bond Ordinances of the Village.

D. Other Financial Obligations of County Waterworks System.

i. Payment Obligations. The County shall make all budgetary, emergency, and other provisions and appropriations necessary to provide for and authorize the prompt payment to the Village of all amounts due under this Contract.

ii. Future County Debt. In any revenue bond, indenture, or other evidence of indebtedness hereafter issued by the County for the County Waterworks System, the obligation for payment established pursuant to this Contract shall be expressly provided and set forth in the ordinances or resolutions providing for the issuance of such bonds, indentures, or other evidence of indebtedness.

E. County Jurisdiction. The County shall not serve any customers outside of the Connection Area without the express prior written agreement of the Village.

F. Maintenance and Operation of City Waterworks System. The County shall own and maintain the County Waterworks System, and all improvements and extensions of said System, in good repair and working order, shall operate said System efficiently, shall take all steps reasonably necessary so that said System may at all times be operated properly and advantageously, and shall punctually perform all duties with respect to said System as may be required by this Contract, and by the Constitution and laws of the United States of America and the State of Illinois and all other applicable laws. In addition, County shall carry insurance or other risk management protection on its County Waterworks System of the kinds and in the amounts which are customarily carried by parties operating similar facilities.

G. County Regulations Equivalent to Village Regulations. The County shall enact regulatory measures regarding the supply and use of Potable Water within the Connection Area, including, without limitation, lawn sprinkling, that are at least as restrictive as the strictest among those adopted by the Village. In the event that the Village adopts new or amendatory regulations regarding the supply and use of Potable Water that are generally applicable in the Village (or in the event that the Village notifies the County that its regulations do not comply with this Subsection 8.G), then the County shall adopt or amend its regulations affecting the County waterworks System within 60 days after notice thereof from the Village, except that: (i) if any Village regulations do not comport with standards of the Illinois Environmental Protection Agency,

then the Village shall be required to demonstrate a need for such regulatory variance; and (ii) to the extent such regulatory change requires modifications to the County Waterworks System,

H. Accounting and Audit. The County shall, within six months after the close of each of its fiscal years occurring during the term of this Contract, provide to the Village complete annual audited financial statements of the County Department of Public Works, which may be on a consolidated basis, duly certified by the County's independent certified public accountants.

I. Maintain Ownership of County Waterworks System. Subject to the proper exercise by a governmental authority of its powers of eminent domain including its power to acquire property in lieu of obtaining judgment in an eminent domain action, the County shall continue to own and possess the County Waterworks System and, within the exercise of reasonable business judgment and in a manner so as not to cause a default hereunder, shall dispose of property which is part of said System only to the extent that such property is no longer useful or profitable in the operations of said System; provided, however, that the County shall not have the right to convey ownership of the County Waterworks System during the term of this Contract without the approval of the Village, which approval shall not be unreasonably withheld.

J. Release and Indemnification. The County hereby releases the Village from, agrees that the Village shall not be liable for, and agrees to indemnify and hold the Village harmless from:

- (1) any liabilities for any loss or damage to property or any injury to, or death of, any third party that may be occasioned by or related to any cause whatsoever pertaining to: (a) the provision of Potable Water under this Contract; or (b) construction, installation, removal, relocation, replacement, extension, improvement, maintenance, or operation of the County Waterworks System or to the Connection Facilities; or
- (2) any liabilities, losses, or damages, or claims therefor, arising out of the failure, or claimed failure, of the County to comply with its covenants or obligations contained in this Contract, including, in each such case, any attorneys' fees,

(all of the matters in phrases (1) and (2) being referred to individually as a "Claim" and collectively as the "Claims"). The County agrees to indemnify and hold the Village, harmless to the fullest extent permitted by law from any losses, costs, charges, or expenses, in connection with any Claim, whether such Claim is asserted in an action, suit, or proceeding instituted or threatened by any third party in connection with any such Claim. If any Claim is asserted, the Village shall give prompt notice to the County, and the County, if requested by the Village, shall assume the defense thereof, it being understood, however, that: (c) the County shall not settle or consent to the settlement of any such Claim without the written consent of the Village, and (d) the Village shall be entitled to approve the counsel selected by the County for any such defense. This paragraph shall in no way be construed to be, nor shall it be, a waiver of any immunity that the Village and/or County may assert to any Claim.

K. Assignment of Litigation. The County shall promptly notify the Village of any litigation or administrative or other proceeding concerning this Contract or which may in any way limit any Party's ability to perform any of the obligations of this Contract. Upon request of the Village, the County shall promptly assign to the Village the right to prosecute, defend or intervene in any litigation or administrative or other proceeding, to which the County is a party or in which the County is involved, that involves or arises out of the limitation of the Party's obligation as set forth in this Contract. Upon assignment, the Village shall be responsible for all costs and expenses of the litigation or administrative or other proceeding.

## **SECTION 9 SCHEDULE FOR COMPLETION OF VARIOUS FACILITIES**

A. Plans and Specifications for County System Connection Facilities and Village Connection Facilities. Subject to the County securing a Water Allocation for the Connection Area, the County shall prepare, and submit to the Village for its review and approval, complete detailed plans, specifications, and construction contract documents (collectively the "**Construction Documents**") for the County to construct the County System Connection Facilities and the Village Connection Facilities. The Construction Documents shall be in general conformity to the



Connection Facilities Concept Plan, and shall include any valves and/or pressure adjusting stations as may be required, immediately downstream from the Point of Delivery. The Village shall provide its comments and revisions on the Construction Documents to the County within 60 days after receipt of those documents. The County shall make all required changes to the Construction Documents necessary to ensure compliance with this Contract.

B. IEPA and Other Approvals For County System Connection Facilities and Village Connection Facilities. The County shall, within 60 days after receipt of Village's comments and revisions pursuant to Subsection 9A above, submit the final Construction Documents for approval and permitting to the Illinois Environmental Protection Agency (the "IEPA") and each other federal, state, or local governmental body having jurisdiction over the County System Connection Facilities and Village Connection Facilities, and shall diligently pursue each such approval and permit until it is secured.

C. Commencement of Construction of County System Connection Facilities and Village Connection Facilities. The County shall cause construction of the County System Connection Facilities and Village Connection Facilities to be commenced within 120 days after the County receives the last approval from any governmental body required as a condition precedent to construction of the County System Connection Facilities and Village Connection Facilities (including the metering station therefor). The County shall cause construction to be pursued diligently and continuously until it is completed.

D. Transfer of Property Rights/Payment Covenant/Oversizing.

i. Conveyance of County Easement. The County shall grant to the Village all necessary easements for the Village metering station and other Village Connection Facilities to be constructed on County owned or controlled property pursuant to this Contract.

ii. Acquisition of Property. The County shall commence all actions necessary to acquire all property rights not already owned by it necessary to fulfill the requirements of this Contract.

iii. Payment Covenant. It is expressly understood and agreed that the County shall be responsible for the design, construction, and payment of the County System Connection Facilities and Village Connection Facilities. It is further agreed that, upon completion and approval of the Village Connection Facilities, County shall convey Village Connection Facilities to the Village by bill of sale without additional consideration from the Village.

#### **SECTION 10 ASSIGNABILITY**

A. Assignment by County. The County shall not assign or transfer this Contract or any rights or interests herein without the advance written consent of the Village.

B. Assignment by the Village. Except as otherwise set forth in this Subsection 10.B, the Village shall not assign or transfer this Contract or any rights or interests herein without the advance written consent of the County. Notwithstanding the preceding sentence, the right to receive all payments that are required to be made by the County to the Village in accordance with the provisions of this Contract may be assigned by the Village to any Trustee as provided in any Bond Ordinance to secure the payment of the principal of and the premium, if any, and interest on the Bonds as those amounts come due, subject to the application of those payments as may be provided in any Bond Ordinance. The County, upon notice of assignment to any such Trustee, shall make all payments directly to such Trustee. Further, the rights of the Village to enforce the provisions of this Contract may be assigned to any such Trustee and, in such event, such Trustee shall have the right to enforce this Contract at law or in equity with or without the further consent or participation of the Village. The Village also may retain the right to enforce this Contract, notwithstanding any assignment to a Trustee.

#### **SECTION 11 FORCE MAJEURE**

If by reason, of *Force Majeure*, either Party to this Contract shall be rendered unable wholly or in part to carry out its obligation under this Contract, then if such Party shall give notice and full particulars of such *Force Majeure* in writing to the other Party within a reasonable time after occurrence of the event or cause relied on, the obligation of the Party giving such notice, so

far as it is affected by such *Force Majeure*, shall be suspended during the continuance of the inability then claimed, but for no longer period, and any such Party shall endeavor to remove or overcome such inability with all reasonable dispatch. The settlement of strikes and lockouts or lawsuits shall be entirely within the discretion of the Party having the difficulty and the above requirement that any *Force Majeure* shall be remedied with all reasonable dispatch shall not require the settlement of strikes and lockouts or lawsuits by acceding to the demands of the opposing party or parties when such settlement is unfavorable to it in the judgment of the Party having the difficulty.

## **SECTION 12 VILLAGE DEFAULTS, COUNTY TERMINATION**

Failure by the Village to deliver Potable Water to the County as required by this Contract for a period of seven days after written notice from the County to the Village of such failure, or a failure of the Village to perform any other obligation under this Contract for a period of 60 days after written notice from the County to the Village of such failure, shall be a default of the Village under this Contract, unless any such failure is excused or exercised pursuant to this Contract. If the Village defaults under this Contract, then the County may, as its sole and exclusive remedy, declare this Contract null and void after giving the required notice set forth above.

## **SECTION 13 COUNTY RIGHTS AND OBLIGATIONS**

The County shall have: (1) no right to terminate, cancel, or rescind this Contract, except for the right of termination in accordance with Section 12 of this Contract; (2) no right to withhold from the Village or any Trustee who is an assignee of the Village pursuant to this Contract payments due under this Contract; (3) no right to recover from the Village or any member of the Village's corporate authorities amounts previously paid under this Contract unless paid in error or contrary to the provisions of this Contract or law; (4) no right of reduction or set-off against the amounts due or to become due under this Contract to the Village; and (5) no lien on any amounts in any fund established by the Village for any reason or on account of the existence or occurrence of any event, condition, or contingency, whether foreseen or unforeseen or foreseeable or

unforeseeable by the County or the Village or any other person. It is the intent hereof that the County shall be absolutely and unconditionally obligated to make all payments under this Contract except as otherwise expressly provided in this Contract. The Village may issue its Bonds in specific reliance on the limitations set forth in this Section with respect to the rights of the County.

#### **SECTION 14 TAX COVENANTS**

At no time shall the County take any action or fail to take any action that would, as a result of such action or inaction and independent of any other action or inaction of the Village or any Village Customer: (a) prevent the Village from issuing Bonds as "governmental use" bonds within the meaning of Section 141 of the Internal Revenue Code of 1986; (b) cause interest on any of the Village's Bonds 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 thereof; or (c) cause any Village Bonds to become "private activity bonds" within the meaning of Section 141 of the Internal Revenue Code of 1986.

#### **SECTION 15 COOPERATION IN ISSUANCE OF OBLIGATIONS**

The County and the Village shall cooperate with each other in the issuance of their respective debt obligations. Each shall comply with all reasonable requests of the other and shall, upon reasonable request of the other:

A. Make available general and financial information about itself (which obligation shall be deemed satisfied by delivery of a complete set of the annual audited financial statements for the most recently completed fiscal year, duly certified by independent certified public accountants); and

B. Consent to publication and distribution of its financial information; and

C. Certify that general and financial information about it is accurate, does not contain an untrue statement of a material fact, and does not omit to state a material fact necessary in order to make the statements in that information, in light of the circumstances under which they were made, not misleading; and

D. Make available certified copies of official proceedings; and

E. Provide reasonable certifications to be used in a transcript of closing documents;

and

F. Provide reasonably requested opinions of counsel of its choice as to the validity of its actions taken with respect to and the binding effect of this Contract, title to the applicable system, pending or threatened litigation which could materially affect its performance hereunder, and other reasonably related opinions. Any such opinion that is requested shall be at the sole cost and expense of the requesting Party.

#### **SECTION 16 REGULATORY BODIES**

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

#### **SECTION 17 OTHER WATER SUPPLIERS; EMERGENCY INTERCONNECTION.**

A. Other Suppliers. Notwithstanding any of the provisions of this Contract, the Village is not prohibited by this Contract from entering into cooperative arrangements with other suppliers or users of Potable Water to provide Potable Water to each other to meet each other's water needs, provided that these arrangements do not interfere, except in emergencies, with the delivery of Potable Water to the County Waterworks System.

B. Emergency Interconnection. In addition to the Village Connection Facilities and County System Connection Facilities, the County may, in its discretion, construct emergency interconnection facilities between the County Waterworks System and the Village Waterworks

System in general conformity with the concept plan attached hereto as Exhibit C (the "**Interconnection Facilities**"). Prior to undertaking construction of such Interconnection Facilities, the County shall prepare, and submit to the Village for its review and approval, complete detailed plans, specifications, and construction contract documents in general conformity with the Interconnection Facilities. The County shall be responsible for undertaking and paying for all work related to the Interconnection Facilities, and such construction shall be coordinated with the Village. Upon completion, the Interconnection Facilities shall be used and governed by the following terms:

1. The County may only draw water from the Interconnection Facilities for a temporary and/or unexpected disruption of the designed and established manner of supply or distribution of Potable Water within the County Waterworks System (an "**Emergency Condition**"), whether arising from a Force majeure event or otherwise. Neither repeated and chronic production outages lacking reasonable aggressive correction efforts, nor the inability of the designed production capacity to meet peak water use demands shall be regarded as an Emergency Condition. Notwithstanding the foregoing, any and all water furnished under this Subsection 17.B shall be deemed to have been used for emergency purposes only.
2. To the extent that an Emergency Condition occurs, the County shall make an emergency request and receive the consent of the Village prior to drawing Potable Water through the Interconnection Facilities. The Village shall grant permission for emergency service, unless providing such service would present a hazard, not merely an inconvenience, to the Village Customers.
3. In granting permission to draw Potable Water through the Interconnection Facilities, the Village will delivery Potable Water to the County in the volume available at the normal operating pressure of the Village Waterworks System. The Village retains the right to terminate the Emergency service, upon oral communication or other notice as may be reasonable under the circumstances, in the event it determines that a condition has developed or reasonably might develop that makes continued Emergency Service hazardous to its Customers. Unusual delay by the County in the correction of the causes for the Emergency Service shall also justify termination of the Emergency Service by the Village upon 24 hours notice.

If, during a period of Emergency Service, the Village finds it necessary to limit the use of Potable Water by its Customers by imposing lawn and garden sprinkling restrictions or otherwise, the County shall, upon notification by the Village, impose the same water use limitations and restrictions on its customers connected to County Waterworks System.

4. The Potable Water to be delivered through the Interconnection Facilities shall be of the same quality as the Potable Water otherwise to be furnished by the Village to the County under this Contract.

5. The County agrees to pay for the Potable Water drawn through the Interconnection Facilities at the same rates and fees as if drawn through the Connection Facilities.

**SECTION 18 EFFECTIVE DATE: TERM**

A. Effective Date. This Contract shall be effective immediately after authorization and execution by both Parties hereto.

B. Term. This Contract shall continue in force and effect for a period that is coterminous with the term of the First Amended Water Supply Contract between the Northwest Water Commission and the Village of Arlington Heights, the Village of Buffalo Grove, the Village of Palatine and the Village of Wheeling, dated April 4, 1983 and any subsequent amendments or extensions thereto. Provided however, that the term of this Contract shall not exceed 20 years in total from the Commencement Date at which time this Contract and the Village's obligations to provide water shall terminate, unless otherwise terminated earlier pursuant to the terms of this Contract. Notwithstanding any other provision contained in this Contract, any right of the County to receive water from the Village shall automatically terminate upon the termination of the Contract between the Village and Northwest Water Commission.

**SECTION 19 TERMINATION BY VILLAGE**

A. Notwithstanding any other provision of this Contract, upon the occurrence of any of the following events, the Village, in its sole discretion, may terminate this Contract for the following reasons:

i. If the County fails to make any payment required under this Contract on or before its due date and fails to cure that failure within fifteen business days after demand therefor from the Village; or

ii. Termination of the Village; or

iii. Immediate threat of damage to the Village Waterworks System or of danger to public health, unless the Village, with the assistance of the County as appropriate, can

reasonably and promptly mitigate the threat of damage or danger by engineering, operational, or other means short of termination of this Contract; or

iv. The Village's inability to receive water from the Northwest Water Commission; provided that any temporary interruption in service by the Northwest Water Commission to the Village shall only authorize the Village's temporary delivery of Potable Water to the County Waterworks System and shall not be grounds for termination of this Contract.

## **SECTION 20. GENERAL**

A. Governing Law. This Contract and the rights of the Parties hereunder shall be interpreted and enforced in accordance with the internal laws, but not the conflicts of laws rules, of the State of Illinois.

B. Notices. Unless otherwise provided in this Contract, all notices required or permitted to be given under this Contract shall be given by the Parties by: (i) personal delivery; (ii) delivery by certified mail, with a return receipt requested, through the United States mail, (iii) deposit with a nationally recognized overnight delivery service, or (iv) delivered by electronic mail, addressed as stated in this Section. Notice by hand delivery or overnight courier service shall be deemed received when delivered; notice by electronic mail shall be deemed received when delivered, provided that a copy of such notice is also sent by (a) certified mail (as provided above), (b) personal delivery, or (iii) a nationally recognized overnight delivery service; and notice by mail shall be deemed received three days after it is placed in the U.S. mail. The address of any Party may be changed by written notice to the other Parties, but no notice of a change of address shall be effective until actually received. Notice that is actually received will be deemed valid, even if received by a method or in a manner that conflicts with this Section. Notices and communications to the Parties will be addressed to, and delivered at, the following addresses:

For notices and communications to the Village:

Village of Buffalo Grove  
50 Raupp Blvd.  
Buffalo Grove, IL 60089



Attn: Village Manager

E-Mail: \_\_\_\_\_

For notices and communications to County:

Lake County

18 N. County Street

Waukegan, IL 60085

Attn: County Administrator

E-Mail: ggibson@lakecountyil.gov

C. Calendar Days and Time. Any reference herein to "day" or "days" shall mean calendar and not business days unless the word "business" is used. If the date for giving of any notice required to be given hereunder or the performance of any obligation hereunder falls on a Saturday, Sunday or federal holiday, then said notice or obligation may be given or performed on the next business day after such Saturday, Sunday or federal holiday. Any reference herein to time of day shall refer to local time for Buffalo Grove, Illinois.

D. Entire Agreement. This Contract, including exhibits hereto, contains the entire agreement between the Parties hereto with respect to the transactions contemplated by this Contract and matters related thereto, and does hereby supersede and render null and void and of no further force or effect any and all prior agreements, drafts of agreements and understandings between the Parties.

E. Amendments. This Contract may not be modified or amended except by a written instrument executed by each of the Parties hereto.

F. Further Action. Each of the Parties hereto agree from time to time to execute and deliver such further instruments, and to take such further action not inconsistent with the provisions of this Contract, as may reasonably be necessary in order to fully perform and carry out the terms and intent hereof.

G. Captions. The headings, titles or captions contained in this Contract have been inserted only as a matter of convenience and for reference, and such captions in no way define, limit, extend or describe the scope of this Contract or the intent of any provision hereof.

H. Exhibits. Exhibits A through C attached hereto are, by this reference, incorporated herein. In case of any conflict between an Exhibit to the Contract and the text of this Contract, the text of this Contract shall control.

I. Changes in Laws. Unless otherwise explicitly provided in this Contract, any reference to laws, ordinances, rules, or regulations shall include such laws, ordinances, rules, or regulations as they may be amended or modified from time to time hereafter.

J. Time is of the Essence. Time is of the essence in the performance of all terms and provisions of this Contract.

K. Pending Lawsuits. There are no agreements in effect and no lawsuits pending or, to the best of either Parties' knowledge, threatened, that would materially and adversely affect the ability of either Party to fulfill the terms of this Contract.

L. Responsible Party. Within 30 days after the Effective Date, the County shall notify the Village of a designated individual and a telephone number or numbers at which such individual with knowledge of the County Waterworks System can be reached at all times in the event of an emergency. The County shall at all times keep current the information of such designated individual or any change in the designated individual.

M. Severability. In the event any part or portion of this Contract, or any provision, clause, wording or designation contained within this Contract, is held to be invalid by a court of competent jurisdiction, such part, portion, provision, clause, wording or designation shall be deemed to be excised from this Contract and the invalidity thereof shall not affect the remainder of this Contract.

N. Reimbursement of Professional Fees/Costs. The County agrees to reimburse the Village for all legal, engineering and other professional fees incurred by the Village related to the design, review and approval of all Connection Facilities and Interconnection Facilities necessary to provide the County with water pursuant to this Contract. The Parties shall confer regularly to estimate fees, to review fees that have been incurred and to consider what fees are estimated

still to be incurred, and the Village will take all reasonable and appropriate steps to avoid excessive fees.

**IN WITNESS WHEREOF**, the Parties hereto have caused their respective corporate names to be subscribed hereto and their respective corporate seals to be affixed hereto and attested by their duly authorized officers, all on the date first shown above.

**[The remainder of this page left intentionally blank.]**

**Village of Buffalo Grove**

By: Benny Larson  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**ATTEST:**

By: Janet M. Swabain  
Clerk

**County of Lake**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**ATTEST:**

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

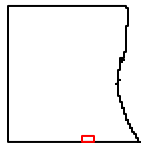
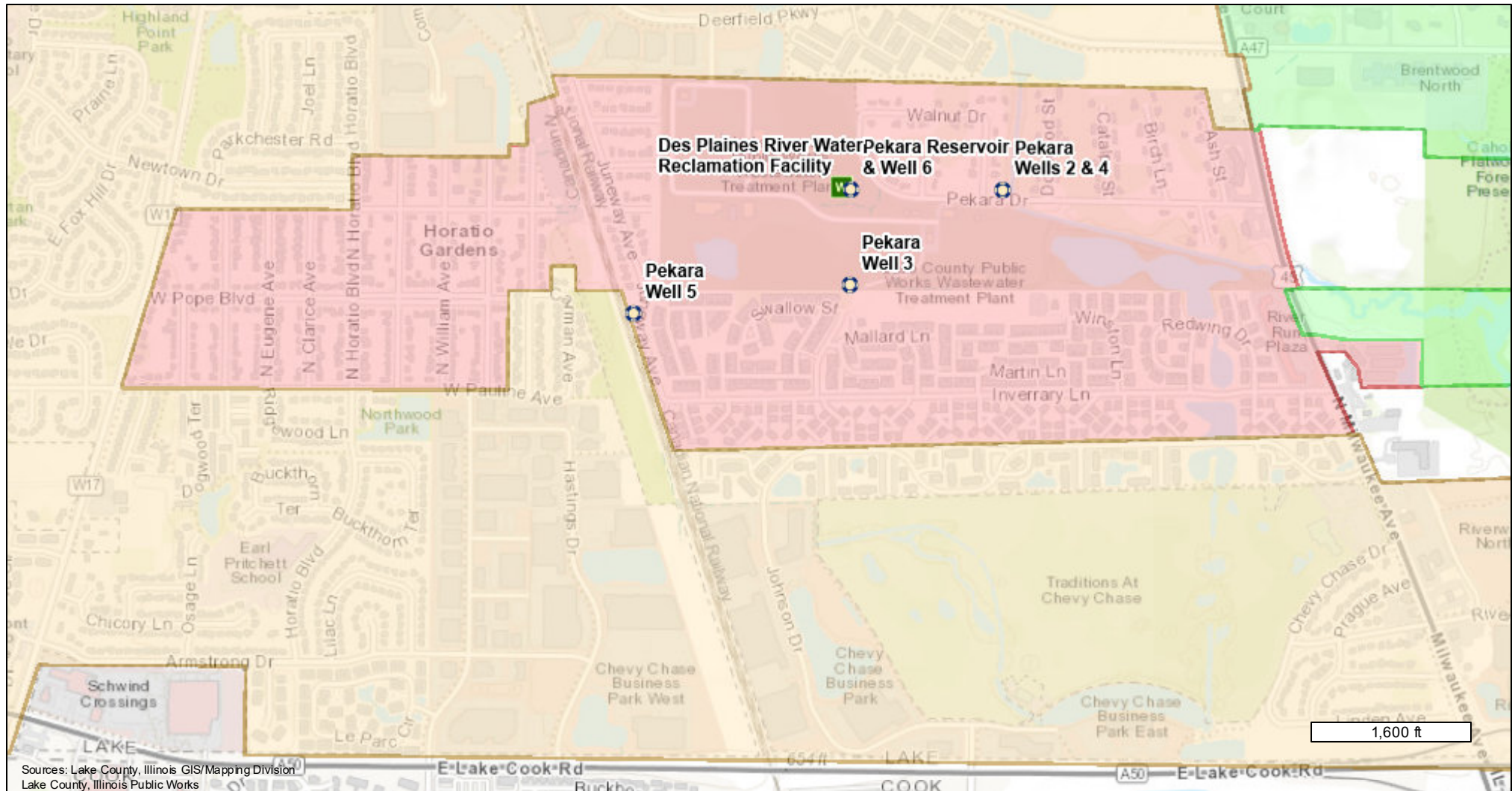
## LIST OF EXHIBITS

- Exhibit A: Connection Area
- Exhibit B: Connection Facilities Concept Plan
- Exhibit C: Concept Plan for Interconnection Facilities

**EXHIBIT A**

**CONNECTION AREA MAP**

# Exhibit A- Pekara Water System



Lake County, Illinois



Map Printed on 10/5/2020



## Major Sewer and Water Facilities

- CLC JAWA Delivery Structure
- Flood Pump Station

- Administration Complex
- Laboratory
- Lift Station
- Pump Station
- Reservoir

- Emergency Interconnection
- Water Reclamation Facility
- Well
- Water Tower

## Connection Fee Areas (above Street)

- Retail Sewer and Water
- Retail Water Only
- Retail Sewer Only

- Wholesale Sewer and Retail Water
- Wholesale Sewer Only
- No LCPW Service

- Water Pipes - CLCJAWA > Streets

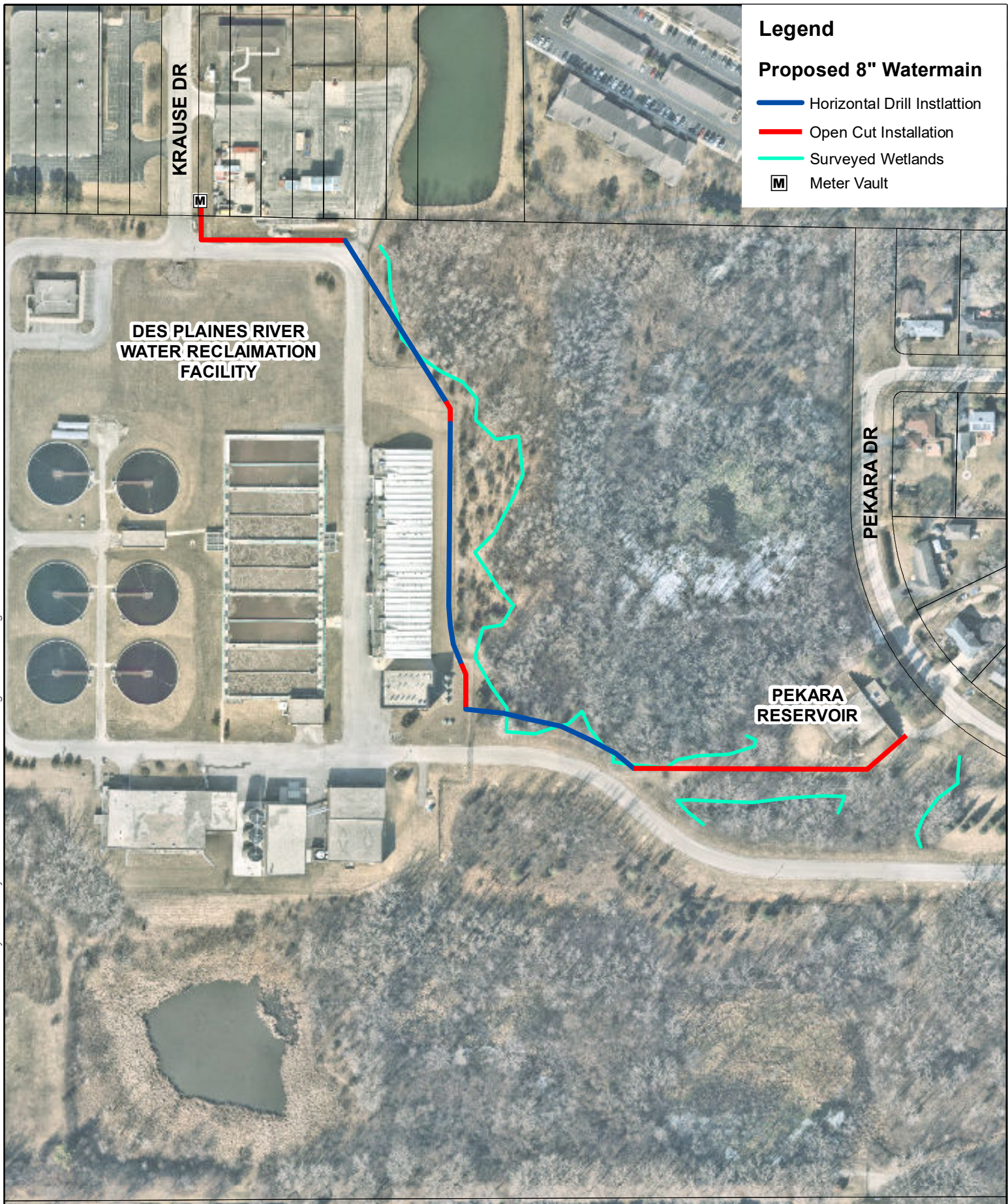
## Disclaimer:

The selected feature may not occur anywhere in the current map extent. A Registered Land Surveyor should be consulted to determine the precise location of property boundaries on the ground. This map does not constitute a regulatory determination and is not a base for engineering design. This map is intended to be viewed and printed in color.

**EXHIBIT B**

**CONNECTION FACILITIES CONCEPT PLAN**





**EXHIBIT C**

**CONCEPT PLAN FOR INTERCONNECTION FACILITIES**



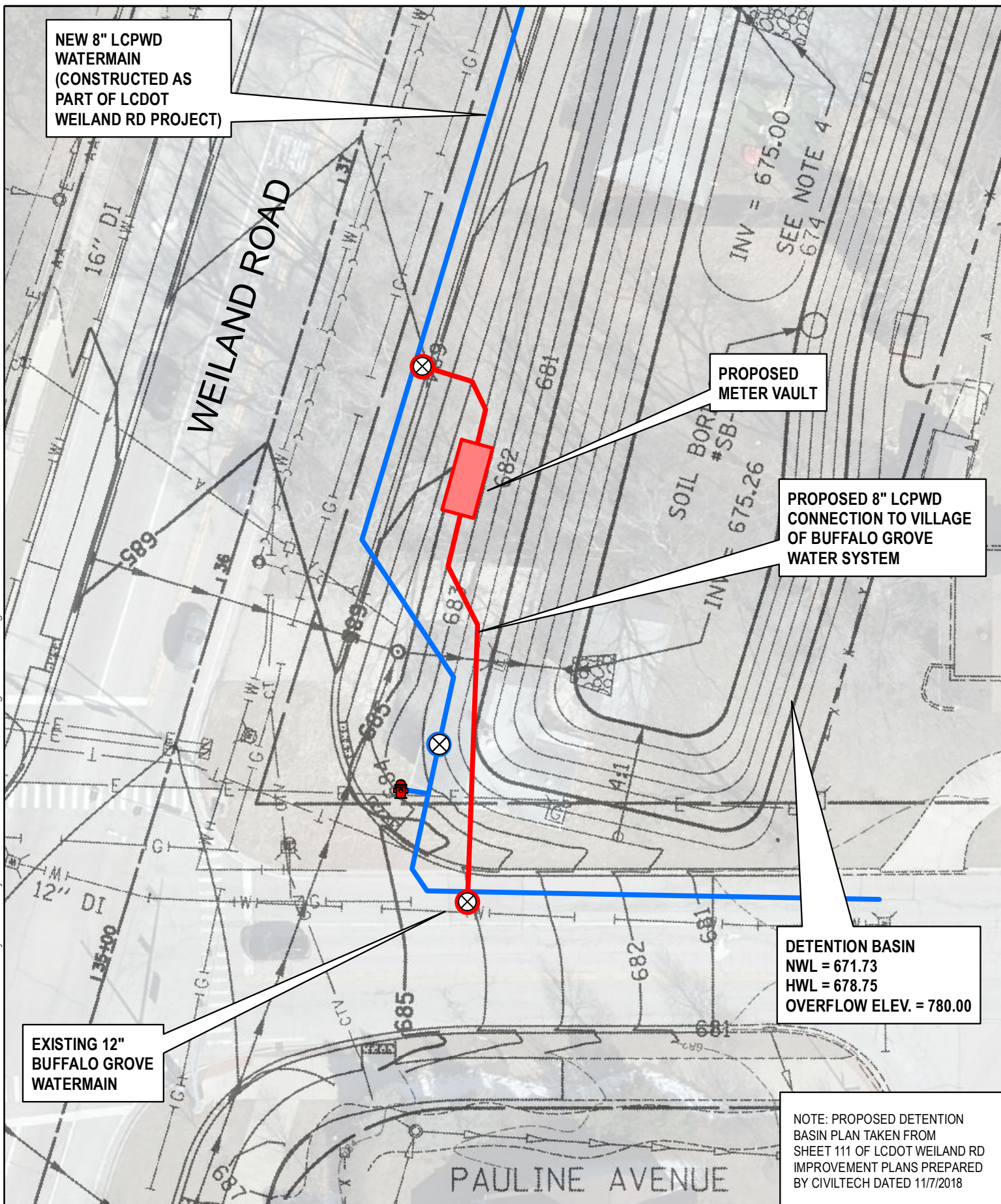


Exhibit C - FIGURE VI-6  
SECONDARY EMERGENCY CONNECTION  
WEILAND ROAD AT PAULINE AVENUE  
VILLAGE OF BUFFALO GROVE