
WATER SUPPLY AGREEMENT

CITY OF CHICAGO

and

CITY OF JOLIET

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This Water Supply Agreement (“Agreement”) is entered into and effective as of _____, 2023 (“Effective Date”), by and between the City of Chicago (“Chicago”), an Illinois municipal corporation and home rule unit of government under Article VII, Section 6(a) of the 1970 Constitution of the State, and the City of Joliet (“Joliet”), an Illinois municipal corporation and home rule unit of government under Article VII, Section 6(a) of the Illinois Constitution. Together Chicago and Joliet shall be referred to as the “Parties”, and at times, individually a “Party”. This Agreement is authorized by an ordinance adopted by the Chicago City Council on April 19, 2023, and by an ordinance adopted by Joliet City Council on April 18, 2023.

RECITALS

WHEREAS, Chicago is the owner and operator of the Chicago Water System; and

WHEREAS, Joliet’s existing water source, the deep groundwater aquifer, will be depleted to the point of not being able to meet Joliet’s maximum day water demands by the year 2030; and

WHEREAS, Joliet conducted a comprehensive, multi-phase alternative water source study beginning in July 2018 which evaluated all possible water source alternatives including groundwater, rivers and Lake Michigan; and

WHEREAS, Joliet determined that purchasing water from the Chicago Department of Water Management will protect the public health, safety and welfare, and provide a sustainable, reliable, high-quality water supply for the City of Joliet that can be ready to deliver Lake Michigan water to the Joliet water system by the year 2030; and

WHEREAS, Joliet has received a State Water Allocation from IDNR as set forth in Exhibit A; and

WHEREAS, Chicago and Joliet desire to and are willing to enter into this Agreement pursuant to which Chicago will furnish a supply of Water to Joliet in a sufficient quantity for the Joliet Water System to supply to the Joliet Customers; and

WHEREAS, the Parties executed a Preliminary Agreement with Respect to an Anticipated Water Supply Agreement on March 17, 2021; and

WHEREAS, in order for Chicago to supply Water to Joliet, the Parties desire to establish the New Water Supply Infrastructure; and

WHEREAS, the Parties anticipate the Chicago New Water Supply Infrastructure and the Joliet New Water Supply Infrastructure will be located within the Chicago corporate boundaries and the New Water Supply Infrastructure will be located both within and outside the Chicago corporate boundaries; and

WHEREAS, the Parties have agreed to cooperate in a coordinated approach to the design, financing and construction of the required New Water Supply Infrastructure located within the Chicago corporate boundaries, which is the Chicago New Water Supply Infrastructure and the Joliet New Water Supply Infrastructure, and Joliet will design, finance and construct the remainder of the required New Water Supply Infrastructure located outside Chicago corporate boundaries, in order to enable Chicago to provide a supply of Water to Joliet by the Targeted Water Delivery Date, as provided in the terms of this Agreement; as well as to protect the Chicago Water System and maintain Chicago’s provision of Water supply to the Chicago Customers; and

WHEREAS, to allow construction of portions of the Chicago New Water Supply Infrastructure and the Joliet New Water Supply Infrastructure to enable Chicago's delivery of Water to Joliet, the Parties and the Chicago Park District have reached agreement as to the necessary interests in land to be conveyed and the appropriate terms and conditions for conveyance of those interests; and

WHEREAS, the Parties anticipate a portion of the New Water Supply Infrastructure will be constructed on the Southwest Pumping Station Site; and

WHEREAS, the Parties anticipate a portion of the New Water Supply Infrastructure will be constructed on the Durkin Site located within Durkin Park; and

WHEREAS, Chicago intends to finance the Tunnel Connection to be constructed by Chicago pursuant to the terms of this Agreement, but paid for by Joliet as part of the cost of service; and

WHEREAS, Joliet intends to finance and pay for the Joliet New Water Supply Infrastructure to be constructed by Joliet pursuant to the terms of this Agreement; and

WHEREAS, Chicago intends to finance those portions of the Chicago New Water Supply Infrastructure to be constructed by Joliet through a coordinated arrangement for financing and construction, but paid for by Joliet as part of the cost of service; and

WHEREAS, the Parties have agreed to cooperate in developing a coordinated approach to the operation and maintenance of the portions of the New Water Supply Infrastructure located within the Chicago corporate boundaries; and

WHEREAS, the Parties acknowledge that Chicago and Joliet agree to work together in a coordinated approach to meet the long-term water supply needs of Joliet and the surrounding southwest suburban region; and

WHEREAS, the Parties have agreed that the cost of Water to be charged by Chicago to Joliet will be based on the then generally recognized principles and practices in the American Water Works Association Manual of Water Supply Practices M1, Principles of Water Rates, Fees, and Charges; and

WHEREAS, the Chicago Water customers, both retail and wholesale, will benefit from Joliet's utilization of a portion of the existing capacity in the Chicago Water System and the payments made by Joliet for the provision of Water from that existing capacity; and

WHEREAS, the Parties are committed to a transparent and collaborative long-term relationship for a supply of Water to Joliet and Chicago has agreed to assist Joliet in matters necessary and appropriate for implementation of this Agreement; and

WHEREAS, Chicago has established the Advisory Council as part of its commitment to deepening regional cooperation and collaboration, as such collaboration efforts are reflected in this Agreement and specifically in Section 24.2; and

WHEREAS, it is anticipated that Joliet and other municipalities in the State also needing to secure an alternative water supply will join collectively to form a Regional Water Commission in the future to which Joliet may assign this Agreement pursuant to the terms of this Agreement; and

WHEREAS, pursuant to Article VII, Section 6(a) of the Illinois Constitution of 1970, a home rule unit of government may exercise any power and perform any function pertaining to its government and affairs, including the power to regulate for the protection of the public health, safety, morals, and welfare, and Chicago and Joliet are both home rule units; and

WHEREAS, each of the Parties hereby determines that Joliet's purchase of Water from Chicago and Chicago's sale of Water to Joliet, including the Parties' negotiating and entering into this Agreement is a function pertaining to each Party's government and affairs;

NOW THEREFORE, the Parties, in consideration of the premises and promises set forth in this Agreement and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, hereby agree as follows:

AGREEMENT

ARTICLE 1. INCORPORATION OF RECITALS

The recitals set forth above are incorporated in and made a part of this Agreement by this reference.

ARTICLE 2. RULES OF INTERPRETATION/CONSTRUCTION OF THIS AGREEMENT

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

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

2.3. Exhibits and Attachments. All attachments and exhibits attached to this Agreement are incorporated into and made a part of this Agreement by this reference.

2.4. Successor Statutes and Regulations; Renamed Sites and Facilities.

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

B. If the name of a site or facility referred to in this Agreement is modified or changed, the Parties intend that such references will mean and refer to the site or facility in its changed or modified name.

2.5. Year. References to "year" mean and refer to a calendar year unless the context specifically refers to a Water Year (as defined in Article 3).

2.6. Successor Titles or Positions. If any title of an official, officer or department head referred to in this Agreement is modified, changed or if the referenced position is changed or is succeeded, the Parties intend that the subject title or position will mean and refer to the title or position, as modified or succeeded.

2.7. Capitalized Terms. Capitalized terms in this Agreement will have the meanings ascribed to them in Article 3, unless otherwise provided.

ARTICLE 3. DEFINITIONS

Certain capitalized terms in this Agreement shall have the meanings ascribed to them below. Other capitalized terms not defined in the main body of this Agreement shall have the meanings ascribed to them in the Easements.

“68th Street/Dunne Crib Complex” means the Water intake crib complex consisting of the 68th Street Crib and the Edward F. Dunne Crib located in Lake Michigan, which provides intake of Water for the Eugene Sawyer Water Purification Plant and associated tunnels beneath Lake Michigan connecting the 68th Street Crib and the Edward F. Dunne Crib to the Eugene Sawyer Water Purification Plant.

“AAR” shall have the meaning given to such term in Subsection 17.4.A(iii).

“AC Governing Documents” means such by-laws, rules of procedure for meetings, and other documents and guidelines governing the work of the Advisory Council.

“AC Member” or “AC Members” means (i) Chicago or (ii) a municipality or entity that is, or is under contract to become, a wholesale customer of Chicago and as further described in Section 24.2.

“Actual Average Day Demand” means the actual total volume of Water delivered to Joliet in a Rate Year divided by the number of days in that Rate Year expressed in units of flow rate (volume per time), and excludes Water delivered prior to Partial Delivery.

“Actual Maximum Day Demand” means the actual largest volume of Water in a single day in a Rate Year expressed in units of flow rate (volume per time), and excludes Water delivered prior to Partial Delivery.

“Actual Peak Hour Demand” means the actual largest volume of Water in a single hour in a Rate Year expressed in units of flow rate (volume per time), and excludes Water delivered prior to Partial Delivery.

“Actual Peaking Factor” means, with respect to Joliet, the Actual Maximum Day Demand or Actual Peak Hour Demand divided by the Actual Average Day Demand in a given Rate Year.

“Additional Major Work” shall have the meaning given to such term in Subsection 21.3.E.

“Advisory Council” means that certain advisory council to Chicago established as described in Article 24.

“Allocation Amount” means, for Joliet and each Subsequent Purchaser, the volume of Water authorized by the IDNR in the State Water Allocation granted to Joliet and each Subsequent Purchaser in each Water Year and set forth in Exhibit A.

“Ancillaries” means (a) the Easements and (b) permits and other approvals issued by Chicago, which Easements, permits, and other approvals (y) pertain to this Agreement and the New Water Supply Infrastructure and (z) will be assigned by Joliet to the Regional Water Commission.

“Annual Reconciliation” means the process by which the Annual Reconciliation Amount is determined.

“Annual Reconciliation Amount” means the difference between the Capped Audited AWWA Rate for a given Rate Year and the Charged Water Rate for that Rate Year multiplied by the Annual Volume delivered to Joliet in that Rate Year.

“Annual Volume” means the total volume of Water delivered during a Rate Year.

“Audited Financials” means the Annual Comprehensive Financial Report of the City of Chicago, including an independent auditor’s report on the financial statements.

“Average Day Demand” means the total volume of Water in a Rate Year divided by the number of days in that Rate Year expressed in units of flow rate (volume per time).

“Audited AWWA Rate” shall have the meaning given to such term in Subsection 17.5.B(i)(b).

“Bidding and Award Period Start Date” shall have the meaning given to such term in Section 9.2.

“Business Day” means any day except any Saturday, any Sunday, any day which is a federal legal holiday in the United States or any day on which banking institutions in the State of New York are authorized or required by law or other governmental action to close or any day on which either Chicago or Joliet city government offices are closed.

“Capital Improvements” means improvements, repairs or replacements to the New Water Supply Infrastructure beyond Maintenance.

“Capped Audited AWWA Rate” shall have the meaning given to such term in Sections 17.3 and 17.4.

“Catastrophic Event” means any catastrophic event caused by Force Majeure impacting the Chicago Water System or the New Water Supply Infrastructure for which there is insufficient commercial insurance (not including any self-insurance, self-insurance retention or costs paid from Chicago funds) to cover any losses incurred.

“CDWM” means the Chicago Department of Water Management.

“Certified Firm” means, generically, a Minority-Owned Business Enterprise or Woman-Owned Business Enterprise (as defined in Chapter 2-92 of the Chicago Municipal Code) certified as such pursuant to Chapter 2-92 of the Municipal Code of Chicago.

“Certified Mail” means Registered Mail® or Certified Mail®, First-Class Mail®, return receipt requested, or any equivalent method providing proof of delivery that is offered by the U.S. Postal Service or its successor at the time of giving any notice pursuant to this Agreement.

“Change” or “Changes” means one or more alterations, modifications or amendments to a Construction Contract for a Project Element.

“Charged Water Rate” shall have the meaning given to such term in Sections 17.3 and 17.4.

“Chicago Appropriation Ordinance” shall have the meaning given to such term in

Subsection 9.7.C.

“Chicago City Council” means the City Council of the City of Chicago.

“Chicago Customer” means any Person who purchases water from DWM.

“Chicago Default” shall have the meaning given to such term in Section 20.14.

“Chicago Indemnified Parties” means and includes with respect to Chicago, officials and officers, agents and employees of Chicago.

“Chicago New Water Supply Infrastructure” means the portion of the New Water Supply Infrastructure consisting of the Tunnel Connection, the Tunnel Extension, the Low Service Pump Station, and the Chicago Service Valve, as well as the property containing said infrastructure and any perimeter wall or fences within the Southwest Pumping Station Site to be constructed pursuant to this Agreement.

“Chicago Ordinances” shall have the meaning given to such term in Subsection 22.2.C(v)(a).

“Chicago Retail Customers” means retail Water customers of Chicago.

“Chicago Service Valve” means the valve installed downstream and outside of the Low Service Pump Station and upstream and outside of the Meter Vault for (a) connecting the Joliet New Water Supply Infrastructure to the Chicago New Water Supply Infrastructure; and (b) providing a means for separating the Joliet New Water Supply Infrastructure from the Chicago Water System.

“Chicago Sufficient Financing” shall have the meaning given to such term in Subsection 9.1.A.

“Chicago Water System” means the waterworks system owned and operated by Chicago.

“Chicago Wholesale Customers” means wholesale Water customers of Chicago.

“Chief Financial Officer” means the Chief Financial Officer of Chicago.

“City Manager” means the City Manager of Joliet.

“Claim” means any and all claims, including patent claims, demands, damages, lawsuits, legal proceedings, administrative proceedings, enforcement actions, losses, liens, liabilities, arbitration, judgments, settlement or compromise, orders or decrees, casualties, occurrences and payments, and all costs and expenses, including, without limitation, attorneys' fees and court costs, and costs and expenses related to litigation (collectively, the “Claims”) relating thereto which may give rise to a right to indemnification under Article 25.

“Commissioner” means the Commissioner of the Chicago Department of Water Management.

“Commission Customers” means the member municipalities that are wholesale customers of the Regional Water Commission and any other wholesale customers of the Regional Water Commission that are not member municipalities.

“Construction Administrator” means the off-site administrator who shall perform the administrative functions as described in Exhibit B.

“Construction Contract” means all documents that are included in or part of the construction contract between a Party and the Contractor for construction of a Project Element, pursuant to the specifications approved pursuant to Article 8 and may include the contract agreement, general conditions of contract, special conditions of contract, plans/drawings, specifications, addenda, notice to proceed, change orders, and performance and payment bonds.

“Construction-Related Engineering Services” means services of the Resident Engineer, Observer and the Construction Administrator to be provided in relation to one or more of the Project Elements, as described in Section 8.10 and Exhibit B.

“Contractor” means any Person with whom Joliet or Chicago contracts to perform work or supply materials or labor in relation to the Project Elements to be constructed by Joliet or Chicago, respectively.

“Contractual Maximum Day Demand” means, for any day in each Water Year, an amount equal to the lesser of the Then-Current LSPS Capacity or the sum of the Allocation Amounts multiplied by two, as set forth in Exhibit A.

“Conveyed Water Infrastructure” means the Chicago New Water Supply Infrastructure (Tunnel Extension, Low Service Pump Station and Chicago Service Valve) conveyed from Joliet to Chicago upon completion of construction pursuant to Section 8.14.

“Cost of Service Study” means an analysis prepared to determine the Chicago Water System’s cost of providing Water to the Chicago Customers for a specific year, and which includes the cost of providing Water to each of the Chicago Wholesale Customers.

“CPD” means the Chicago Park District.

“CPI-W” means Consumer Price Index—Urban Wage Earners and Clerical Workers (“Chicago All Items”), as published by the U.S. Department of Labor, Bureau of Labor Statistics, (1982-1984=100). As of the Effective Date, this index was identified with Series ID CWURS23ASA0.

“Default for Failure to Pay” shall have the meaning given to such term in Section 20.3.

“Defending Party” means the party which is undertaking and controlling the defense of any Third-Party Claim.

“Demand Event” means a change in Joliet’s Average Day Demand, Maximum Day Demand, or Peak Hour Demand between the demand estimated for the calculation of the Projected AWWA Rate for a Rate Year and the actual demand used to calculate the Audited AWWA Rate for that Rate Year which the change in demand, controlled for other changes, causes the Audited AWWA Rate to be higher than the Projected AWWA Rate.

“Design and Construction Period” means the period of time beginning as of the date of this Agreement, until the New Water Supply Infrastructure Completion Date.

“Design Intent” means the mutually agreed-upon provisions of the Construction Contract which establish the intended functionality, operations, or costs of the Project Element as initially designed and constructed, as mutually agreed upon by the Parties, and as amended as described

in Sections 8.11 and 15.6.

“Director of Public Utilities” means the Director of Public Utilities of Joliet.

“Disbursement Request” shall have the meaning given to such term in Subsection 9.7.E.

“Durkin Temporary Construction Easement Agreement” means that certain Easement Agreement for use of the Durkin Temporary Construction Easement Area between CPD and Joliet.

“Durkin Temporary Construction Easement Area” means that certain designated land area, the temporary use of which CPD grants to Joliet pursuant to the Durkin Temporary Construction Easement Agreement.

“Durkin Park” means a public park located at 8445 South Kolin Avenue, Chicago, Illinois 60652, a portion of which is owned by CPD.

“Durkin Site” means a portion of the real property located within Durkin Park and identified as provided in the Durkin Site Easement.

“Durkin Site Easement” means that certain Easement Agreement for Durkin Park from Chicago to Joliet.

“DWM” means the Chicago Department of Water Management.

“Easements” means collectively the Durkin Site Easement, the Durkin Temporary Construction Easement Agreement, and the Southwest Pumping Station Site Easement.

“Effective Date” means the date identified in the first paragraph of this Agreement as the date as of which this Agreement has been entered into and is effective.

“Emergency Demand Event” means a curtailment event initiated by Chicago which results in Joliet’s Actual Maximum Day Demand or Peak Hour Demand being higher than that which would have otherwise been observed for that Rate Year.

“Emergency Interconnection” means a point of connection for the purpose of providing, for a limited period of time, emergency water service between the Joliet Water System and another entity’s water system.

“Emergency Purchaser” means a purchaser of Water directly or indirectly from Joliet on a wholesale but emergency-only basis.

“Eminent Domain Act” means the Illinois Eminent Domain Act, 735, ILCS 30 *et seq.*

“Escrow Account” shall have the meaning given to such term in Section 20.7.

“Escrow Agent” means a bank or trust company organized under the laws of the State or a national banking institution doing business and having an office in Chicago, chosen by Chicago to manage the Escrow Account, as provided in Section 20.7.

“Escrow Agreement” means an agreement by and among Chicago, Joliet, and the Escrow Agent, as provided in Section 20.7.

“Escrow Period” shall have the meaning given to such term in Subsection 20.7.B(ii).

“Eugene Sawyer Water Purification Plant” means the Eugene Sawyer Water Purification Plant of Chicago located in Chicago, Illinois 60649, which provides finished Water to the South Tunnel Zone.

“Event of Default” means a Chicago Default or a Joliet Default.

“Fixed Limit Water Rate” shall have the meaning given to such term in Section 17.4.A.

“Force Majeure” shall have the meaning given to such term in Section 26.1.

“Full Delivery” means continuous and ongoing delivery of Water to Joliet for the Joliet Customers in amounts sufficient to meet the requirements of Joliet and all Subsequent Purchasers included on Exhibit A from time to time.

“Governmental Authority” means any court, federal, state, local or foreign government, department, commission, board, bureau, agency or other regulatory, administrative, governmental, or quasi-governmental authority.

“Guaranteed Maximum Capacity” means the capacity of the Chicago Water System to provide Water to Joliet, as measured by the capacity of the connection point between the Tunnel Connection and the Tunnel Extension; as of the Effective Date and until otherwise increased by Chicago, this capacity is one hundred and five (105) MGD; provided that such amount may be increased pursuant to Section 11.7.

“High Service Pump Station” means the high service pumping station and all related appurtenances including, but not limited to the generator(s) that serve said High Service Pump Station, located or to be located on the Southwest Pumping Station Site, and which pumps Water from the Suction Well through the Transmission Main towards Joliet.

“Hydrant Water” means a temporary supply of Water provided by Chicago from a Chicago hydrant pursuant to a permit issued by Chicago.

“IDNR” means the Illinois Department of Natural Resources, or any successor agency responsible for approving allocations of Lake Michigan water under the Level of Lake Michigan Act.

“IEPA Permitted Capacity” means the rated capacity of a pumping station as provided on a permit issued by the IEPA.

“IEPA” means the Environmental Protection Agency of the State, or any relevant successor State agency.

“IGA” means that certain Intergovernmental Agreement dated July 30, 2021 between Chicago and CPD, as amended by that certain First Amendment to Intergovernmental Agreement dated as of July 30, 2021, and that Second Amendment dated as of December 31, 2022, and attached as Exhibit F.

“Indemnified Party” means any Party entitled to indemnification under this Agreement.

“Indemnifier” means any Party obligated to provide indemnification under this Agreement.

“Inflation Index Water Rate” shall have the meaning given to such term in Section 17.4.

“Initial Full Delivery” means the first Full Delivery of Water occurring on or after the Targeted Water Delivery Date.

“Initial Rate Period” means the period from the date of the first delivery of Initial Water for Testing until the date of the first Partial Delivery.

“Initial Supplemental Amount” means the amount described in Subsection 7.6.D(vii).

“Initial Term” means the period of years described in Section 4.1.

“Initial Water for Testing” means an intermittent and periodic supply of Water sufficient for Joliet’s use for the purpose of construction of the New Water Supply Infrastructure and/or initial testing of all or any portion of the New Water Supply Infrastructure prior to Partial Delivery.

“Internal Revenue Code” means the Internal Revenue Code of 1986, as amended, and the U.S. Treasury regulations thereunder, as amended.

“Joliet City Council” means the City Council of the City of Joliet.

“Joliet-Constructed Chicago New Water Supply Infrastructure” shall have the meaning given to such term in Subsection 9.7.A.

“Joliet-Constructed Chicago New Water Supply Infrastructure Cost” shall have the meaning given to such term in Subsection 9.7.B.

“Joliet Customers” means, collectively, Joliet Retail Customers, Joliet Retail Outside Customers, the Purchasers and, with respect to Water used by Joliet in its municipal facilities and not sold to other Persons, Joliet.

“Joliet Default” shall have the meaning given to such term in Section 20.1.

“Joliet Indemnified Parties” means and includes with respect to Joliet, officials and officers, agents and employees of Joliet.

“Joliet New Water Supply Infrastructure” means the portion of the New Water Supply Infrastructure consisting of the Meter Vault, Suction Well, High Service Pump Station and Transmission Main-Chicago.

“Joliet Ordinances” shall have the meaning given to such term in Subsection 22.2.C(iv)(i).

“Joliet Retail Customers” means retail Water customers of Joliet located within the corporate limits of Joliet.

“Joliet Retail Outside Customers” means retail Water customers of Joliet located outside the corporate limits of Joliet.

“Joliet Sufficient Financing” shall have the meaning given to such term in Subsection 9.1.B.

“Joliet Water System” means the waterworks system owned and operated by Joliet.

“Late Penalty” or “Late Penalties” means one or more monthly penalties imposed by Chicago as provided in Sections 19.5 and 20.7.

“Law” means any order, writ, injunction, decree, judgment, law, ordinance, decision,

principle of common law, opinion, ruling, policy, statute, code, rule, or regulation of any Governmental Authority.

“Level of Lake Michigan Act” means the Level of Lake Michigan Act, 615 ILCS 50/1 *et seq.*, as from time to time supplemented and amended, and any successor statute, as well as any regulations promulgated thereunder.

“Loss” means with respect to any Person, any Claims, suit, liability, judgment, cost and expense, charge loss, liability, injury, death, damage, including but not limited to property damage, penalty, or out-of-pocket and documented costs or expenses actually suffered or incurred by such Person, but provided that the Indemnified Party is not in default under Article 20, excluding any punitive, special, indirect and consequential damages and any contingent liability until such liability becomes actual, and as subject to Sections 25.1 and 25.2.

“Low Service Pump Station” means that certain low service pumping station and all related appurtenances including, but not limited to the generator(s) that serve said Low Service Pump Station, to be located on the Southwest Pumping Station Site.

“Maintenance” means and includes, without limitation, actions to maintain, repair, modify or replace portions of the New Water Supply Infrastructure as necessary for the delivery and receiving of Water.

“Management Agreement” means an agreement between the Regional Water Commission and the City of Joliet, to establish terms for management of the implementation of the Regional Water Commission’s water supply system.

“Maximum Day Demand” means the largest volume of Water in a single day in a given Rate Year expressed in units of flow rate (volume per time).

“Measuring Devices” means equipment used to measure and record the quantity of Water furnished to Joliet at the Point of Measurement.

“Meter Vault” means a vault located on the Southwest Pumping Station Site outside of and downstream of the Low Service Pump Station and outside of and upstream of the Suction Well and containing the Measuring Devices.

“MGD” means million gallons per day.

“M1 Manual” means the American Water Works Association Manual of Water Supply Practices M1, Principles of Water Rates, Fees, and Charges, latest addition.

“Municipal Code of Chicago” means the Municipal Code of Chicago, as amended from time to time.

“New Delivery” means a daily amount of Water delivered by Chicago to Joliet for each new Subsequent Purchaser, which delivery is in addition to a previous Full Delivery, as further described in Subsections 11.4.D and 11.4.E and Section 11.5.

“New Water Supply Infrastructure” means new Chicago-to-Joliet water supply infrastructure and all related appurtenances thereof, for Chicago to supply Water to Joliet, and shall include infrastructure located both within and outside the Chicago corporate boundaries. New Water Supply Infrastructure includes, but is not limited to, the Chicago New Water Supply Infrastructure, the Joliet New Water Supply Infrastructure, and the Project Elements.

“Notice” means any notice or other communications required by this Agreement.

“Observer” means the Project On-Site Representative for the Party not holding the Construction Contract for the Project Element, who shall observe the work, attend construction meetings, provide comments to the Resident Engineer relating to the applicable Project Element the functions as described in Exhibit B and Subsection 8.10.B.

“Ongoing Water for Testing” means an intermittent and periodic supply of Water sufficient for Joliet’s use for the purpose of ongoing construction of the New Water Supply Infrastructure and/or testing of all or any portion of the New Water Supply Infrastructure after the commencement of Partial Delivery.

“Partial Delivery” means a continuous and ongoing delivery of a daily amount of Water (other than Initial Water for Testing) by Chicago to Joliet as provided in Subsection 11.4.B which (a) is less than, or may be equal to, a Full Delivery of Water, and (b) is sufficient to serve all or a portion of the demand of Joliet and one or more Subsequent Purchasers.

“Payable Supplemental Amount” means the amount described in Subsection 7.6.D(vii).

“Peak Hour Demand” means the largest volume of Water in a single hour in a given Rate Year expressed in units of flow rate (volume per time).

“Permanent Emergency Interconnection” means an Emergency Interconnection through a permanent water main at a permanent, fixed location and controlled by a valve or other physical method of control of the flow of water.

“Person” means any individual (including, the heirs, beneficiaries, executors, legal representatives or administrators thereof), corporation, partnership, joint venture, trust, limited liability company, limited partnership, joint stock company, unincorporated association or other entity, a municipality, a governmental unit, a governmental agency or other governmental entity.

“Phase” shall have the meaning given to such term in Section 21.1.

“Phase End Date” shall have the meaning given to such term in Section 21.2.

“Phase Start Date” shall have the meaning given to such term in Section 21.2.

“Point of Demarcation” means the location of the Chicago Service Valve, unless otherwise mutually agreed by the Parties.

“Point of Measurement” means the Meter Vault or such other point(s) as the Parties may agree to in writing.

“Proceeding” shall have the meaning given to such term in Section 29.2.

“Project Element” means any of the following: the Tunnel Connection, the Tunnel Extension, the Low Service Pump Station, the Chicago Service Valve, the Meter Vault, the Suction Well, the High Service Pump Station and the Transmission Main-Chicago.

“Project On-Site Representative” means a project on-site representative appointed by Chicago and Joliet respectively who shall serve as the applicable Party’s representative on both the Durkin Site and the Southwest Pumping Station Site during the Design and Construction Period to coordinate and monitor construction of the New Water Supply Infrastructure.

“Projected AWWA Rate” means the rate for the next year based on the most recently completed Cost of Service Study as well as projected costs and expenses to provide Water to Joliet and the projected Units of Service required for the next year and as described in Subsection 17.5.B.

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

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

“Purchasers” means collectively the Subsequent Purchasers and the Emergency Purchasers.

“Qualifying Event” means (i) any Catastrophic Event or (ii) any Regulatory Change, for which Chicago has provided notice to Joliet and in such notice provided data and information to Joliet to demonstrate the direct, specific costs Chicago has incurred or will incur in connection with the Catastrophic Event or Regulatory Change in order to provide Water to Joliet.

“Rate Year” means a period of one year ending on December 31, which is coincident with the calendar year and fiscal year for Chicago as of the Effective Date.

“Regional Water Commission” means, if established, the Grand Prairie Water Commission, a regional water commission that would be a separate unit of government created under Illinois Municipal Code, 65 ILCS 5/11-135.5 *et seq.* by Joliet and other municipalities in the southwest suburban region of the State.

“Renewal Term” means the period of years described in Section 4.2.

“Regular Rate Period” means the rate period commencing on the day after the end of the Second Rate Period.

“Regulatory Change” means any material change in Law governing the (i) operation of the Chicago Water System and New Water Supply Infrastructure or (ii) the production and quality of Water provided to Joliet, however, “Regulatory Change” shall not include Laws that require additional Water treatment where the operational requirement could be met with advanced water treatment technology consisting of ozonation and biologically active granular activated carbon (GAC) filters.

“Regulatory Requirements” means applicable standards or requirements of any federal or State agency with jurisdiction over public water supplies.

“Reopening” means the process of negotiations regarding the terms of this Agreement as described in Section 5.2.

“Resale Period” means seventeen (17) years from the date of sale by Joliet to Chicago of any portion of the Joliet New Infrastructure pursuant to Subsection 7.6.C and subject to Subsection 7.6.D.

“Resident Engineer” means the On-Site Representative of the Party holding the Construction Contract who shall perform full-time inspection of the installation of a Project Element to determine conformance with the Construction Contract and handle all communications with the Contractor, and perform additional functions as described in Exhibit B.

“Revenues” means the revenues derived from the operation of a water system, as defined in the Illinois Municipal Code and applicable to each Party.

“RWC Act” means Regional Water Commissions Act, 65 ILCS 5/11-135.5-1 *et seq.*

“RWC Assignment” means that certain “Assignment of Water Supply Agreement City of Chicago and City of Joliet” by and among Chicago, Joliet and the Regional Water Commission which includes the amended and restated Water Supply Agreement, as further described in Section 22.2.

“RWC Assignment Notice” means the notice of the RWC Assignment to be given by Joliet to Chicago as described in Subsection 22.2.C.

“RWC IGA” means an intergovernmental agreement adopted by the members of the Regional Water Commission providing for the acquisition and operation jointly of a waterworks system and providing for a common source of water supply from Lake Michigan.

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

“RWC Resolution” means a resolution or resolutions, or ordinance or ordinances, of the Board of Commissioners of the Regional Water Commission.

“Second Rate Period” means the period from the date of the first Partial Delivery until the first December 31 occurring after the date of Initial Full Delivery.

“Second Rate Period Fraction” shall have the meaning given to such term in Subsection 17.3.A.

“Sewer Rate” means the number of dollars and whole cents charged to Joliet by Chicago per 1,000 gallons of wastewater discharged into the Chicago sewer system as provided in Article 18.

“South Tunnel Zone” means the subterranean tunnels below the land under Chicago which convey Water from the Eugene Sawyer Water Purification Plant and transmit Water to several pumping stations including the Southwest Pumping Station.

“Southwest Pumping Station” means Chicago’s Southwest Pumping Station, located at 8422 South Kedvale Avenue a/k/a 8405 S. Keeler Avenue, Chicago, Illinois 60652.

“Southwest Pumping Station Site” means the real property upon which the Southwest Pumping Station is located, a plat of survey, property index number or PIN, and legal description of which is as set forth in the Southwest Pumping Station Site Easement.

“Southwest Pumping Station Site Easement” means that certain Easement Agreement For Two (2) Permanent Easement and Seven (7) Temporary Easements At the City of Chicago Southwest Pumping Station Property from Chicago to Joliet.

“State” means the State of Illinois.

“State Water Allocation” means an allocation of Lake Michigan water granted by IDNR pursuant to the Level of Lake Michigan Act.

“Subcontractor” means any subcontractor of any tier, supplier or materialman directly or indirectly employed pursuant to a subcontract with a Contractor to perform work or supply materials or labor in relation to the Project Elements to be constructed by Joliet or Chicago.

“Subsequent Purchaser” means a purchaser of Water from Joliet on a wholesale basis, directly or indirectly, which purchaser is located outside of Joliet’s corporate limits and is listed on Exhibit A. Purchasers of Water from Joliet on a wholesale but emergency basis shall not be considered Subsequent Purchasers.

“Substitute Chicago Financing” shall have the meaning given to such term in Section 9.3.

“Substitute Joliet Financing” shall have the meaning given to such term in Section 9.4.

“Suction Well” means that certain suction well to be installed as an underground reservoir on the Durkin Site and including all underground and above-ground structures, piping, and appurtenances necessary for the operation and maintenance of said Suction Well.

“Targeted Water Delivery Date” means January 1, 2030, unless otherwise mutually agreed by the Parties.

“Temporary Emergency Interconnection” means an Emergency Interconnection through facilities at a location to be identified and used on an interim basis.

“Term” means the Initial Term and any Renewal Terms.

“Termination” means a termination authorized pursuant to the terms of this Agreement.

“Termination Date” means the date of Termination of this Agreement pursuant to the terms of this Agreement.

“Then-Current LSPS Capacity” means the amount of Water that the Chicago Water System can provide to Joliet based on the IEPA Permitted Capacity of the Low Service Pump Station at a particular point in time.

“Third-Party Claim” means any Claim asserted against a Chicago Indemnified Party or Joliet Indemnified Party, as applicable, by any Person who is not a Party or an affiliate of such a Party.

“Transmission Main” means that certain water main and related appurtenances which is part of a complete system running from the Southwest Pumping Station Site to Joliet for the transmission of Water from Chicago to Joliet.

“Transmission Main-Chicago” means that certain portion of the Transmission Main and related appurtenances located within the Chicago corporate boundaries.

“Tunnel Connection” means that certain tunnel connection and related appurtenances located at the Southwest Pumping Station Site including a below-ground shaft and gates, for connecting the Tunnel Extension to the existing tunnel system of the Chicago Water System.

“Tunnel Extension” means that certain tunnel extension and related appurtenances

located at the Southwest Pumping Station Site between the Tunnel Connection extending to and serving as the suction for the Low Service Pump Station and including all below-ground shafts and gates for the construction and operation of said tunnel extension.

“Units of Service” means Annual Volume or Average Day Demand, Maximum Day Demand, Peak Hour Demand, and units of service for customer costs using an approach consistent with the M1 Manual.

“Water” means Lake Michigan water.

“Water Rate” means the number of dollars and whole cents charged to Joliet by Chicago per 1,000 gallons of Water provided to Joliet.

“Water Source Transfer Plan” means a plan prepared by Joliet to enable the transition by Joliet from well water to Water within Joliet’s Water System in a manner complying with the requirements of the IEPA.

“Water System” means the Chicago Water System or the Joliet Water System, as indicated by the context.

“Water Year” shall mean a period of one year ending on September 30.

“Working Group” or “Working Groups” means one or more groups established by the Advisory Council pursuant to Subsection 24.2.G.

ARTICLE 4. TERM; RENEWAL

4.1. Initial Term. This Agreement shall be in force and effect for a period that shall begin on the Effective Date and end on December 31 of the year that is 100 years after the Effective Date, unless a shorter term is required by Law or a shorter term is mutually agreed by the Parties under this Agreement, or as otherwise provided in Article 6.

4.2. Renewal Terms. Chicago and Joliet agree that this Agreement will automatically renew for successive 10-year terms to the extent permitted by Law, unless (A) either Party provides to the other Party a notice of its intent not to renew this Agreement pursuant to Section 4.3, or (B) a longer or shorter period for any Renewal Term is mutually agreed by the Parties. Each such period is a Renewal Term. The Initial Term and any Renewal Terms are collectively referred to as the Term of this Agreement. Notwithstanding the provisions in this Article 4, the Parties do not intend this Agreement to be a perpetual contract under the Law.

4.3. Non-Renewal. Chicago and Joliet shall each provide notice to the other Party of its intent not to renew this Agreement for any Renewal Term not later than January 1 of the fifth calendar year before the end of the Initial Term or of any Renewal Term, as applicable. The notice shall state the date on which the notifying Party intends that this Agreement will terminate and shall be given via Certified Mail, and, if desired by the Parties, may also be given by electronic communications, such as email.

ARTICLE 5. AMENDMENTS DURING THE TERM

5.1. Amendment in Writing. Upon agreement of both Parties, provisions of this Agreement may be modified or amended during its Term. No amendment or modification of this Agreement shall be effective unless made in writing and approved and executed by both Parties.

5.2. Reopening of Agreement. Beginning [_____, 2073], Joliet shall have the right to reopen this Agreement by providing notice to Chicago of its intent to commence negotiations regarding the terms of this Agreement.

A. Notice. Notice that Joliet is exercising its right to reopen this Agreement shall include the proposed subject matter of the amendment or amendments to, and the potentially affected provisions of, this Agreement. The notice shall be given via Certified Mail, and, if desired by the Parties, may also be given by electronic communications, such as email.

B. Negotiations Upon Reopening. If Joliet exercises its right to reopen this Agreement, Joliet and Chicago shall promptly commence negotiations towards determination of the proposed amendment or amendments, including holding a meeting of the Parties not more than thirty (30) days after Chicago's receipt of notice from Joliet. The Parties agree to negotiate in good faith and to promptly conduct the negotiations, including attending and participating in meetings and responding to proposals from the other Party until resolution is reached. Such negotiations shall be limited to consideration of the subject matter of the amendment or amendments to this Agreement proposed in the notice submitted by Joliet. However, Chicago may propose consideration of other amendments it believes are directly related to the impact of Joliet's amendments on other portions of this Agreement. If Joliet agrees with Chicago that Chicago's proposed amendments are directly related, then, to that extent, Joliet will agree to include in the negotiations Chicago's proposed amendments. Negotiations pursuant to this Section 5.2 may result in an agreement that no change should be made in this Agreement.

5.3. Amendments to Attachments A and B and Exhibit A. The Parties agree that during the Term, Attachment A and Attachment B, and Exhibit A shall be updated from time to time pursuant to the provisions of this Agreement.

ARTICLE 6. TERMINATION

6.1. Early Termination by Joliet. Prior to the first to occur of the first Partial Delivery of Water or January 1, 2032, unless otherwise mutually extended, Joliet may terminate this Agreement by giving thirty (30) days' notice to Chicago if, following Joliet's good faith efforts, Joliet reasonably determines that:

A. not all of the real estate necessary to receive the first Partial Delivery of Water pursuant to this Agreement (including, but not limited to, construction of the New Water Supply Infrastructure) can be obtained on mutually acceptable terms with owners of, or other Persons with an interest in, the real estate, or

B. if Joliet cannot procure sufficient financing as described in Article 9.

The notice shall state the reason for the early termination and describe the basis for Joliet's determination that it cannot obtain the real estate or financing described above, as applicable, and shall state the date on which Joliet intends the termination will be effective. Joliet may not terminate this Agreement for the reasons provided in this Section 6.1 after the earlier of the date of the first Partial Delivery by Chicago to Joliet or January 1, 2032.

6.2. Early Termination – Payment of Chicago Costs. In the event that Joliet terminates this Agreement pursuant to and within the time specified in Section 6.1, or Chicago terminates this Agreement pursuant to and within the time specified in Section 6.4, Joliet shall reimburse Chicago for the categories of out-of-pocket costs itemized in Subsections 6.2.A through 6.2.F and unanticipated costs as provided in Subsection 6.2.G that are reasonably incurred by Chicago in connection with the design and construction of the New Water Supply Infrastructure in Chicago

(which shall not include the cost of internal Chicago personnel) during the period between (and including) March 17, 2021 and the date of such early termination by Joliet. With respect to costs incurred by Chicago during the period from Chicago's receipt of such Termination notice through the Termination Date, Joliet will reimburse Chicago only for those costs necessary in connection with the Termination of this Agreement and fulfilling the obligations of this Agreement up until the Termination Date.

A costs for professional services for design and field investigation and construction management on the Southwest Pumping Station Site in connection with the Tunnel Connection;

B. costs for professional services for coordination by Chicago with Joliet on the design and construction management of the rest of the Project Elements to be located on the Southwest Pumping Station Site and the Durkin Site;

C. costs in connection with any construction related to the Tunnel Connection, the Tunnel Extension, the Chicago Service Valve and the Low Service Pump Station and costs reasonably necessary to (1) bring ongoing construction of these Project Elements to a safe and orderly conclusion, (2) eliminate any safety hazards related to construction of these Project Elements, and (3) restore any infrastructure or the real property on which the construction of these Project Elements is located to the condition the infrastructure or the real property was in, immediately prior to the start of the construction at the reasonable discretion of Chicago. Such costs shall include (i) any reasonable legal fees and expenditures incurred by outside counsel retained by Chicago, (ii) disposition costs under Article 7 that are incurred by Chicago to the extent Joliet has not paid for such costs, and (iii) other reasonable fees and costs, such as engineering studies and reports, document recordation and appraisals, relating to termination of any easements or real property leases;

D. costs in connection with Chicago seeking or obtaining financing for the Tunnel Connection, Tunnel Extension, Low Service Pump Station, and Chicago Service Valve;

E. costs of debt service allocable under generally acceptable accounting standards to the financing for the Tunnel Connection, Tunnel Extension, Low Service Pump Station, and Chicago Service Valve and incurred by Chicago for the purposes described in Subsection 6.2.C, such as interest payments on a line of credit or other financing instruments, trustee fees and other administrative fees during the term of said financing. Upon early termination by Joliet, Chicago agrees that "costs of debt service allocable" will not include interest or fees on or related to funds borrowed by Chicago for the purposes described in Subsection 6.2.C, but not used for those purposes;

F. costs for professional services reasonably related to the preparation and negotiation of Article 17 and the Cost of Service Study, as applicable to Joliet and other costs for professional services reasonably related to the preparation and negotiation of this Agreement. Costs referred to in this Subsection 6.2.F are reimbursable by Joliet to Chicago so long as the services or the product of the services for which such costs were incurred are not useful to Chicago in connection with agreements with any other then-current or potential Chicago Wholesale Customers; and

G. costs (i) that are not otherwise itemized in this Section 6.2 and (ii) that are or were unanticipated by Chicago and (iii) that are reasonably related to this Agreement and its early termination by Joliet pursuant to Article 6. If Chicago believes it is incurring or will incur any such costs, Chicago shall notify Joliet of each type or category of costs and an estimate of the expected amount of costs in each type or category for a calendar year not later than March 31 of the following calendar year.

6.3. Joliet Early Termination Option After 50 Years. Chicago and Joliet agree that this Agreement may be terminated by Joliet, for any reason in its sole discretion, at any time during the Term so long as said termination occurs after the end of the first fifty (50) years of the Initial Term. Joliet shall notify Chicago of Joliet's intent to terminate this Agreement pursuant to this Section 6.3 not later than January 1 of the fifth (5) calendar year before the date on which Joliet intends that this Agreement be terminated and specify the date of termination. The notice shall be given via Certified Mail and, if desired by the Parties, may also be given by electronic communications, such as facsimile or email.

6.4. Chicago Termination for Non-Completion. Chicago may terminate this Agreement if (i) Joliet has entered into a contract to secure water on a non-emergency basis from an alternative water source other than Chicago, or, (ii) the first Partial Delivery has not occurred by December 31, 2048, or a later date as mutually agreed due to Joliet's failure to complete the construction of the New Water Supply Infrastructure (other than the Tunnel Connection). In the event of a termination by Chicago under this Section 6.4, Chicago is entitled to repayment of the costs incurred by Chicago and described in Section 6.2 and the remedy of disposition of any existing Joliet Water Supply Infrastructure pursuant to Article 7.

6.5. Termination for Default. This Agreement may be Terminated by either Party for Default by the other Party as a remedy under and pursuant to the requirements of Article 20. In order to Terminate for Default, the Party exercising the remedy shall provide the Defaulting Party with a notice of Termination providing that the date of Termination shall be no earlier than ninety (90) days after receipt of the Termination notice by the Defaulting Party. Said 90-day period shall not constitute a Cure Period under Section 20.5 or Section 20.15. During the 90-day period before the date of Termination, Chicago shall not suspend or cease delivery of Water to Joliet and Joliet shall continue to be obligated to pay for Water pursuant to Article 17.

ARTICLE 7. DISPOSITION OF JOLIET NEW WATER SUPPLY INFRASTRUCTURE

7.1. Disposition of Joliet New Water Supply Infrastructure—In General. In the event of Termination or non-renewal of this Agreement, disposition of the Joliet New Water Supply Infrastructure shall be subject to the following provisions as well as Sections 7.5, 7.6 and 7.7:

A. Disposition of those portions of the Joliet New Water Supply Infrastructure located on the Southwest Pumping Station Site, the Durkin Site or other real property owned by Chicago within the Chicago corporate boundaries (other than public right-of-way) shall be governed by Section 7.2;

B. Disposition of those portions of the Joliet New Water Supply Infrastructure located in the public right-of-way in Chicago shall be governed by Section 7.3; and

C. Disposition of those portions, if any, of the Joliet New Water Supply Infrastructure located on either real property owned by Joliet or property owned by a third party (other than Chicago Park District) upon which Joliet has legal rights to locate a portion of the Joliet New Water Supply Infrastructure within the Chicago corporate boundaries shall be governed by Section 7.4.

For the purposes of this Article 7, Joliet New Water Supply Infrastructure includes construction work in progress.

7.2. Southwest Pumping Station Site, Durkin Site and Other Chicago-Owned Real Property. In the event of Termination or non-renewal of this Agreement, Chicago shall have the right to determine, in its sole discretion, the disposition of those portions of the Joliet New Water Supply Infrastructure located on the Southwest Pumping Station Site, the Durkin Site or any other

real property owned by Chicago within the Chicago corporate boundaries (other than public right-of-way):

A. Within sixty (60) days following delivery of notice of non-renewal pursuant to Section 4.3 or Termination pursuant to Article 6, Chicago and Joliet shall promptly meet and confer to discuss the disposition of such portions of such Joliet New Water Supply Infrastructure and shall continue to meet as necessary to address matters pertaining to such disposition and related procedures prior to the last day of the Term.

B. Not less than eighteen (18) months prior to the last day of the Term, Chicago shall notify Joliet as to whether each Project Element (or portion thereof) of such Joliet New Water Supply Infrastructure shall be:

- i. abandoned in place;
- ii. sold to Chicago or its designee;
- iii. removed; or
- iv. as mutually agreed by the Parties, disposed of in some other manner.

C. Notice by Chicago pursuant to Subsection 7.2.B:

i. shall specify the methods of disposition, which may be the same or different for each Project Element (or portion thereof) of the Joliet New Water Supply Infrastructure located on the Southwest Pumping Station Site, the Durkin Site or other real property owned by Chicago within the Chicago corporate boundaries (other than public right-of-way); and

ii. shall specify the identity of the buyer(s), if known, and the applicable price(s) for those portions of the Joliet New Water Supply Infrastructure located on the Southwest Pumping Station Site, the Durkin Site or other real property owned by Chicago within the Chicago corporate boundaries (other than public right-of-way) to be sold to Chicago, or its designee. Any price to be specified by Chicago for a sale shall be subject to the requirements of Section 7.6.

7.3. Public Right-of-Way. In the event of Termination or non-renewal of this Agreement, Joliet shall have the right to determine, with respect to those portions of the Joliet New Water Supply Infrastructure located in the public right-of-way within the Chicago corporate boundaries, whether such portions thereof are to be abandoned in place except as provided in Subsection 7.3.C:

A. Within sixty (60) days following delivery of notice of non-renewal pursuant to Section 4.3 or Termination pursuant to Article 6, Chicago and Joliet shall meet and confer to discuss the potential abandonment in place of the Joliet New Water Supply Infrastructure and shall continue to meet as necessary to address matters pertaining to such abandonment and related procedures, and pertaining to any other disposition determined pursuant to this Section 7.3 and related procedures, by which such abandonment or disposition shall be effected.

B. Not less than eighteen (18) months prior to the last day of the Term, Joliet shall notify Chicago if Joliet is exercising its right to abandon in place some or all of those portions of such Joliet New Water Supply Infrastructure, identifying in the notice the locations of the public rights-of-way in which portions of the Joliet New Water Supply Infrastructure will be abandoned

in place.

C. In the event that:

i. one or more Project Elements (or portions thereof) are to be sold to Chicago or a designee of Chicago pursuant to Section 7.2;

ii. the Project Elements (or portions thereof) will be used by Chicago or its designee to provide Water service to Chicago, another Chicago Customer or a potential Chicago Customer; and

iii. Chicago determines that it requires and will use one or more portions of the Joliet New Water Supply Infrastructure located in the public right-of-way within the Chicago corporate boundaries in order to provide Water service to Chicago, another Chicago Customer or a potential Chicago Customer;

then Chicago shall have the first right to purchase those portions identified in the notice described in the following sentence. If Chicago makes such a determination, it shall include notice of its determination within, or concurrent with, its notice to Joliet required pursuant to Subsection 7.2.C and shall specify which portions of Joliet New Water Supply Infrastructure located in the public right-of-way within the Chicago corporate boundaries are required by Chicago for the purposes described in paragraphs ii and iii of this Subsection 7.3.C. Any price for such a sale to Chicago shall be subject to the requirements of Section 7.6. Chicago's right to purchase such portions under this Subsection 7.3.C takes priority over Joliet's right to abandon in place those portions; however, if such a sale does not occur, then Joliet may exercise its right to abandon in place such portions of the Joliet New Water Supply Infrastructure within one hundred and eighty (180) days after notice is received from Chicago that Chicago will not purchase any such portions.

D. If Joliet does not provide notice to Chicago as described and within the time specified in Subsection 7.3.B, or the notice provided by Joliet to Chicago does not exercise Joliet's right to abandon in place all of the portions of the Joliet New Water Supply Infrastructure located in the public right-of-way within the Chicago corporate boundaries, then Chicago shall have the right to determine, in its sole discretion, whether all or any of such portions of the Joliet New Water Supply Infrastructure located in the public right-of-way within the Chicago corporate boundaries as to which Joliet has not exercised its right to abandon in place, shall be:

i. abandoned in place;

ii. sold to Chicago or its designee;

iii. removed; or

iv. as mutually agreed by the Parties, disposed of in some other manner.

E. In order to exercise its right under Subsection 7.3.D to those portions of the Joliet New Water Supply Infrastructure to which Subsection 7.3.D applies, Chicago shall provide notice to Joliet of its determination under Subsection 7.3.D, not more than six (6) months after Joliet's deadline under Subsection 7.3.B, which notice by Chicago:

i. shall specify the methods of disposition, which may be the same or different for each Project Element (or portion thereof) located in the public right-of-way in Chicago to which Subsection 7.3.D applies; and

ii. shall specify the identity of the buyer(s), if known, and the applicable price(s) for those portions of the Joliet New Water Supply Infrastructure to which Subsection 7.3.D applies to be sold to Chicago, or its designee. Any price to be specified by Chicago for a sale shall be subject to the requirements of Section 7.6.

7.4. Real Property and Real Property Rights Owned by Joliet within Chicago. In the event of Termination or non-renewal of this Agreement and any portion of the Joliet New Water Supply Infrastructure is located on real property either owned by Joliet or owned by a third party (other than the Chicago Park District) and Joliet holds an easement, lease, license or similar interest therein, all located within the Chicago corporate boundaries (and not located on property governed by Sections 7.2 and 7.3), then the following will apply.

A. If Chicago, another Chicago Customer, or a potential Chicago Customer intends to use all or any portion of such Joliet New Water Supply Infrastructure to provide Water service to Chicago, another Chicago Customer, or a potential Chicago Customer, then Chicago (for itself another Chicago Customer, or a potential Chicago Customer) shall have the right to acquire by purchase from Joliet:

i. the (a) Joliet New Water Supply Infrastructure located on real property owned by Joliet, if any, that is located within the Chicago corporate boundaries and (b) real property owned by Joliet on which that portion of the Joliet New Water Supply Infrastructure is located; and

ii. the (a) Joliet New Water Supply Infrastructure located on real property owned by a third party (other than the Chicago Park District) for which Joliet holds an easement, lease, license or similar interest (to the extent assignable) and located within the Chicago corporate boundaries (and not located on property governed by Sections 7.2 and 7.3) and (b) easement, lease, license or similar interest held by Joliet upon real property owned by a third party (other than the Chicago Park District (to the extent assignable) on which that portion of the Joliet New Water Supply Infrastructure is located.

B. Within sixty (60) days following delivery of notice of non-renewal pursuant to Section 4.3 or Termination pursuant to Article 6, Chicago and Joliet shall promptly meet and confer to discuss the potential purchase by Chicago (for itself, another Chicago Customer or a potential Chicago Customer) from Joliet of such portions of the Joliet New Water Supply Infrastructure and Joliet's real property or easement, lease, license or similar rights to use the real estate (to the extent assignable) on which such portions are located, and shall continue to meet as necessary to address matters pertaining to such purchase prior to the last day of the Term.

C. The price for a sale by Joliet to Chicago (for itself, another Chicago Customer, or a potential Chicago Customer) under this Section 7.4 shall be determined pursuant to the requirements of Section 7.6.

D. Not less than eighteen (18) months prior to the last day of the Term, Chicago shall notify Joliet whether Chicago (for itself, another Chicago Customer, or a potential Chicago Customer) desires to purchase the portions of the Joliet New Water Supply Infrastructure and related real property described in Subsection 7.3.A for the purpose described in Subsection 7.3.A, at the price determined pursuant to Subsection 7.3.C.

7.5. Schedule.

A. The disposition of the Joliet New Water Supply Infrastructure located in Durkin Park that requires the performance of construction activity or other physical work shall be

completed by Joliet to the satisfaction of Chicago within five (5) years after the later to occur of (i) the last day of the Term or (ii) the last day on which Chicago delivers Water to Joliet through the Point of Demarcation (unless Chicago and Joliet agree to a later date). Any disruption of the use of Durkin Park for park purposes during disposition shall not exceed two (2) years within this five (5) year period.

B. The disposition of Joliet New Water Supply Infrastructure not located in Durkin Park that requires the performance of construction activity or other physical work pursuant to Sections 7.2 through 7.3 shall be completed by Joliet to the satisfaction of Chicago within five (5) years after the later to occur of (i) the last day of the Term or (ii) the last day on which Chicago delivers Water to Joliet through the Point of Demarcation (unless Chicago and Joliet agree to a later date). In addition, any disposition work in a portion of public right-of-way within Chicago corporate boundaries shall be completed in a timely manner so as to minimize disruption of the public's use of that portion of the public right-of-way.

C. The purchase or transfer of any portion of the Joliet New Water Supply Infrastructure and related real property or real property interests, if any, pursuant to this Article 7 shall be completed within one (1) year after the later to occur of (i) the last day of the Term or (ii) the last day on which Chicago delivers Water to Joliet through the Point of Demarcation (unless Chicago and Joliet agree to a later date).

7.6. Applicable Standards and Conditions.

A. All disposition procedures with respect to the Joliet New Water Supply Infrastructure that requires the performance of construction activity or other physical work by Joliet shall be conducted by Joliet in accordance with applicable Laws. All dispositions involving modification to real property shall include the restoration of said real property to Chicago's specifications. In addition, the method and procedures used shall be reasonable and consistent with the then-current standard used by Chicago for similar facilities owned by Chicago. If Chicago has no then-current standard, then the disposition shall be consistent with then-current industry standards. If the disposition is of construction work in progress by Joliet on the Joliet New Water Supply Infrastructure, the disposition shall include (i) bringing any ongoing construction or modification of such Joliet New Water Supply Infrastructure being constructed or modified to a safe and orderly conclusion and (ii) eliminating safety hazards related to any ongoing construction or modification of said Joliet New Water Supply Infrastructure.

B. Joliet shall be responsible for obtaining and ensuring that all Contractors and Subcontractors obtain, all applicable approvals, permits and authorizations necessary for disposition of the Joliet New Water Supply Infrastructure that requires the performance of work by Joliet from applicable local, State and federal agencies. Chicago will cooperate with Joliet and its Contractors and Subcontractors to enable Joliet to obtain, and will not unreasonably withhold, all Chicago approvals, permits and authorizations. Chicago will cooperate with Joliet and its Contractors and Subcontractors to enable Joliet to obtain all approvals, permits and authorizations necessary from other local, State and federal agencies with jurisdiction.

C. Compensation for the sale of a Project Element (or portion thereof) shall be determined as follows:

i. Except as otherwise provided in Subsection 7.6.D , if the Project Element (or portion thereof) is to be sold to Chicago or a designee of Chicago and the Project Element will be used by Chicago or its designee to provide Water service to Chicago, another Chicago Customer or a potential Chicago Customer, then Joliet shall receive compensation for the sale of the portion of the Project Element, which will be determined

by a valuation determined based on one or more appraisals performed by appraisers or other qualified professionals designated by one or both of the Parties, which appraisers or other qualified professionals shall have experience in valuation of the type of Project Element (or portion thereof) to be sold.

ii. If the Project Element (or portion thereof) is to be sold to Chicago or a designee of Chicago and the Project Element (or portion thereof) will be used by Chicago or its designee for uses other than to provide Water service to Chicago, a Chicago Customer, or a potential Chicago Customer, then Joliet shall receive compensation for the sale of the Project Element (or portion thereof) at a price specified by Chicago in its sole discretion.

iii. If the Project Element (or portion thereof) is to be sold to Chicago or a designee of Chicago pursuant to Section 7.4, then the value of the real property owned by Joliet or easement, lease, license or similar interest held by Joliet shall be determined based on one or more real estate appraisals performed by appraisers who have received an MAI designation by the Appraisal Institute (or a similar certification) and are designated by one or both of the Parties.

D. Nothing in this Article 7 precludes Joliet from soliciting for and providing a proposal to Chicago that all or a portion of the Joliet New Water Supply Infrastructure be sold by Joliet to another then-current or potential Chicago Wholesale Customer at a price agreed upon between Joliet and Joliet's proposed purchaser. In such an instance, the following will apply:

i. Joliet shall notify Chicago about the proposal and its terms not less than twenty-four (24) months prior to the last day of the Term.

ii. Chicago shall review and discuss the proposal with Joliet prior to determining, in Chicago's sole discretion, whether to approve or reject the proposal presented by Joliet.

iii. Chicago shall notify Joliet of its acceptance or rejection of the proposal not less than eighteen (18) months prior to the last day of the Term.

iv. If Chicago rejects such proposal, disposition of that portion of the Joliet New Water Supply Infrastructure subject to the proposal shall be subject to the terms of Sections 7.2, 7.3 or 7.4, as applicable.

v. If the disposition method is sale to Chicago or its designee, the sale price shall be determined pursuant to Subsection 7.6.C.

vi. After the sale of the portion of the Joliet New Water Supply Infrastructure to Chicago, if during the Resale Period:

a. Chicago sells that portion of the Joliet New Water Supply Infrastructure identified in Joliet's proposal to the purchaser identified in Joliet's proposal; and

b. the purchase price identified in Joliet's proposal is greater than the amount paid by Chicago to Joliet pursuant to Subsection 7.6.C,

then Chicago shall pay to Joliet an additional amount to be known as the "Payable Supplemental Amount".

vii. The Initial Supplemental Amount shall be the amount of the purchase price identified in Joliet's proposal minus the purchase price paid by Chicago to Joliet. The Payable Supplemental Amount shall be the amount due from Chicago to Joliet and shall be calculated as follows:

a. During the first year of the Resale Period, the Payable Supplemental Amount shall be ninety-four and one-tenth percent (94.1%) of the Initial Supplemental Amount.

b. During the last year of the Resale Period, the Payable Supplemental Amount shall be five and nine-tenths percent (5.9%) of the Initial Supplemental Amount.

c. During each of the other years of the Resale Period, the Payable Supplemental Amount shall be a percentage of the Initial Supplemental Amount, which shall decrease each year from the immediately preceding year by an amount equal to five and nine-tenths percent (5.9%).

viii. The Payable Supplemental Amount shall be paid to Joliet within sixty (60) days after the receipt of the sale proceeds by Chicago from the purchaser identified in Joliet's proposal.

ix. If the purchase price identified in Joliet's proposal is not greater than the amount paid by Chicago to Joliet pursuant to Subsection 8.6.C, no amount shall be payable by Chicago to Joliet. If Chicago shall sell to a purchaser not identified in Joliet's proposal, no Payable Supplemental Amount shall be payable by Chicago to Joliet.

E. If the disposition of any Project Element (or portion thereof) of the Joliet New Water Supply Infrastructure is by any method other than removal, Joliet will convey its right, title and interest in such Project Element (or portion thereof) to Chicago or its designee by bill of sale in a form acceptable to Chicago, or its designee, as well as any easement, lease, license, or similar right (to the extent it is assignable) required by Section 7.4 in a form acceptable to Chicago or its designee. Any conveyance involving abandonment in place will be promptly following completion of the abandonment in place by Joliet. All conveyances will be in "as is, where is" condition with no warranties or guarantees. Upon conveyance, Joliet will have no further responsibility or liability for the Project Element (or portion thereof) conveyed.

F. Joliet's performance of any removal or abandonment in place of any portion of the Joliet New Water Supply Infrastructure shall be performed in a manner that shall not result in any damage to:

i. the Chicago Water System in the vicinity of the removal or abandonment in place work being performed;

ii. water infrastructure not owned by Chicago but located within the Chicago corporate boundaries in the vicinity of the removal or abandonment in place work being performed; or

iii. any portion of the Joliet New Water Supply Infrastructure to be conveyed to Chicago or its designee pursuant to this Agreement.

iv. Include any environmental remediation of the Joliet New Water Supply Infrastructure known to Joliet at the time of conveyance or expected as a result of the abandonment in place or removal.

G. If the entire Project Element is to be disposed of by removal or abandonment in place, Joliet shall have the right to salvage portions of, and items within, that Project Element. If the Project Element (or portion thereof) will be repurposed for a use other than reuse as a water transmission or distribution facility, then Joliet will have the right to salvage portions of, and items within, that Project Element (or portion thereof) related to the provision of water service, subject to Chicago's approval, which shall not be unreasonably withheld.

H. The costs of all disposition procedures for the Joliet New Water Supply Infrastructure, including permits and filing fees (but not amounts for any purchases by Chicago or its designee), shall be paid by Joliet.

I. Insurance coverage requirements with respect to the disposition of the Joliet New Water Supply Infrastructure shall be as provided in Article 21.

J. If the tax-exempt bonds, financing, or debt obligations of either Party for the construction of the New Water Supply Infrastructure remain outstanding at the Termination of this Agreement, either Party shall not cause the transfer or sale of any portion of the New Water Supply Infrastructure to any third party if such transfer or sale would cause tax-exempt bonds, financing, or debt obligations to lose their tax-exempt status under the Internal Revenue Code, unless mutually agreed to by both Parties.

7.7. Article 7 to Survive Termination. This Article 7 shall survive Termination of this Agreement.

ARTICLE 8. DESIGN AND CONSTRUCTION OF NEW WATER SUPPLY INFRASTRUCTURE

8.1. General; Scope. In order to enable Chicago to deliver and Joliet to receive Water from Chicago, certain New Water Supply Infrastructure will be required. Article 8 applies only to the initial design and construction of the New Water Supply Infrastructure and assigns responsibility for various roles in connection with the design and construction of various portions of the New Water Supply Infrastructure to each of the Parties.

8.2. New Water Supply Infrastructure in Chicago. The Parties shall coordinate in the design and construction of the following Project Elements of the New Water Supply Infrastructure that are located within the Chicago corporate boundaries:

- A. The Chicago New Water Supply Infrastructure, which consists of the following:
 - i. Tunnel Connection;
 - ii. Tunnel Extension;
 - iii. Low Service Pump Station; and
 - iv. Chicago Service Valve.

- B. Joliet New Water Supply Infrastructure, which consists of the following:
 - i. Meter Vault;
 - ii. Suction Well;
 - iii. High Service Pump Station; and

iv. Transmission Main-Chicago.

8.3. Design of, and Construction-Related Engineering Services for, the New Water Supply Infrastructure in Chicago. The Parties agree that the design review process in Section 8.6 will establish the mutually agreed-upon specifications and drawings which will be included in the Construction Contract for a Project Element and subject to Change as provided in Section 8.11. The Construction Contract will establish the basis for the Design Intent for the Project Element.

A. By Chicago. Chicago shall be responsible for and shall complete the design, permitting, procurement process, construction and Construction-Related Engineering Services for the following Project Element: Tunnel Connection.

B. By Joliet. Joliet shall be responsible for and shall complete the design, permitting, procurement process, construction and Construction-Related Engineering Services for the following Project Elements: Tunnel Extension, Low Service Pump Station, Chicago Service Valve, Meter Vault, Suction Well, High Service Pump Station, and Transmission Main-Chicago.

8.4. Schedule and Milestones for Completion of New Water Supply Infrastructure in Chicago.

A. Overall Schedule and Milestones. The Parties agree that they will, promptly after the Effective Date, establish a schedule of completion dates for design, construction and commissioning of the Parties' respective Project Element(s) and milestones, based on the need for the provision of Water by Chicago to Joliet by the Targeted Water Delivery Date ("Completion Schedule"). The Parties agree to collaborate on the phasing of the Project Elements to allow for Water to be provided to Joliet by the Targeted Water Delivery Date. Joliet recognizes that completion of the Tunnel Extension must occur in a sufficient timeframe to allow for construction of the Tunnel Connection. Chicago recognizes that completion of the Tunnel Connection construction must be completed in a timeframe to allow for Joliet's completion of the Joliet Project Elements. Joliet shall periodically notify Chicago of the status of construction of and the associated milestones for Project Elements other than the Tunnel Connection. Chicago shall periodically notify Joliet of the status of construction and associated milestones for the Tunnel Connection. The Parties agree to meet and confer on a periodic basis regarding progress toward completion of their respective Project Element(s). Each Party shall work in good faith and endeavor to meet the design, construction and commissioning milestone dates for each of the Project Elements for which said Party is responsible for designing, constructing, and providing under this Agreement. Milestones for each Project Element shall include, without limitation, conceptual design (10%), preliminary design (30%), final design (60%, 90%, 100%), bidding, contract award, construction (issuance of notice to proceed, substantial completion, final completion), start-up, commissioning, and final acceptance.

B. Notice of Delay of the Completion Schedule for the Project Elements. Joliet shall notify Chicago of any delay or anticipated delay in the completion of the Project Elements other than the Tunnel Connection, and Chicago shall notify Joliet of any delay or anticipated delay in the completion of the Tunnel Connection. These notices shall include at least the following information:

- i. the reason for the delay;
- ii. the steps to be taken to resolve the delay;
- iii. the anticipated new date for completion of the subject Party's Project Element, as applicable;

- iv. the impact on the Completion Schedule; and
- v. the impact on the Parties' ability to provide Water by the Targeted Water Delivery Date.

Upon receipt of such a notice by a Party from the other Party, the Parties shall promptly meet and work together in good faith to address the reasons for the delay, and identify proposed and potential steps that can be taken to resolve the delay, in order to allow completion of the affected Project Element as near in time as possible to the date for completion of the Tunnel Connection or any of the other Project Elements, as applicable, and to enable the delivery and receiving of Water by the Targeted Water Delivery Date. The Parties will coordinate and work in good faith to not cause any unreasonable delays in the Completion Schedule.

8.5. Design Preferences and Roles of the Parties for New Water Supply Infrastructure in Chicago. Chicago and Joliet shall each be responsible for the planning and design of certain Project Elements, as described in Section 8.3 and agree that they will collaborate with each other in the design of both the Chicago New Water Supply Infrastructure and the Joliet New Water Supply Infrastructure. Chicago and Joliet's Design Preferences will be reasonable and consistent with the current standards respectively used by Chicago and Joliet for similar facilities and if Chicago or Joliet has no current standard, then each Party's Design Preferences shall be consistent with current industry standards. All Project Elements shall be constructed in compliance with applicable Laws. The table in Exhibit C establishes the Party whose Design Preferences will govern for each Project Element, and the role of each Party in the planning and design of each Project Element.

8.6. Review Process for Design of Project Elements in Chicago.

A. Primary Key Representative. Each Party shall designate a primary key representative for the review process and to participate in the meetings under this Section 8.6. Either Party shall notify the other Party of any change in its primary key representative.

B. Meetings. The Parties agree to meet on a biweekly basis, at a minimum, during the planning and design phase for technical coordination, unless otherwise mutually agreed. The Parties agree to participate and have appropriate representation in attendance in order to facilitate coordination efforts.

C. Review Process, Timeframes and Milestones. To facilitate the review process, the Parties will comply, to the best of their ability with the review process, timeframes and milestones established in Exhibit D for review of design submittals for each of the Project Elements, subject to each Party receiving from the other Party the information necessary to complete its tasks in a timely manner.

8.7. Site Access During Design. During design of the Project Elements, access to the Southwest Pumping Station and Durkin Site will be required for field investigations. Access will be subject to the terms of any easement agreements or other agreements in place that apply to such access, and any additional permitting required for site access during design based on the type of field investigation being performed as well as the site on which it will be performed. Joliet and Chicago will work together to expedite site access permitting to prevent schedule delay.

A. For field investigations at the Southwest Pumping Station Site:

- i. For field investigations that do not require excavation, such as surveying, notice of the proposed field investigations must be provided to Chicago at least

forty-eight (48) hours in advance. Notice will include the names, driver's license numbers and mobile phone numbers of individuals that will be onsite as well as the anticipated dates and times access is required. Chicago will coordinate access for those individuals including designating a CDWM representative to meet the individuals onsite.

ii. For field investigations that require excavation, such as geotechnical borings, and an easement agreement is in place, the terms of the easement agreement will govern. If no easement agreement is in place, Joliet shall notify Chicago at least thirty (30) Business Days in advance and a right of entry agreement will be developed between the Parties to detail the requirements for access.

B. For field investigations at the Durkin Site:

i. For field investigations that do not require excavation, such as surveying, notice of the proposed field investigations must be provided to Chicago and CPD at least forty-eight (48) hours in advance. Notice will include the names, driver's license numbers and mobile phone numbers of individuals that will be onsite as well as the anticipated dates and times access is required. CPD will coordinate access for those individuals which may include designating a CPD representative to meet the individuals onsite.

ii. For field investigations that require excavation, such as geotechnical borings, and an easement agreement is in place, the terms of the easement agreement will govern. If no easement agreement is in place, Joliet shall notify Chicago and CPD at least thirty (30) Business Days in advance and a right of entry agreement will be developed between the Parties to detail the requirements for access.

8.8. Permits and Approvals for New Water Supply Infrastructure in Chicago.

A. Responsibility for Obtaining Permits and Approvals. Each Party responsible for the design and permitting of, and the procurement process, construction and Construction-Related Engineering Services for, a Project Element of the New Water Supply Infrastructure as provided in Section 8.3 shall obtain, and ensure that all of its Contractors obtain, all applicable design and construction approvals, permits and authorizations necessary for such Party's respective components of the design and construction of each such Project Element from such local, State and federal agencies, including but not limited to the IEPA, as have jurisdiction over the real estate on which such Project Element is located and the work to be performed in connection with such Project Element. A table itemizing the Project Elements and the roles of each Party in connection with obtaining key permits from the IEPA and Chicago is included in Exhibit E. In order to facilitate obtaining necessary permits and approvals from Chicago, Chicago shall provide to Joliet a list of all permits and approvals necessary for each Project Element (other than the Tunnel Connection) which list shall be updated from time to time.

B. Coordination. Chicago shall coordinate and collaborate with Joliet, and support and assist Joliet in its efforts, to obtain any approvals, permits and authorizations necessary for the construction and operation of the Project Elements (other than the Tunnel Connection) located within Chicago, and Joliet will coordinate and collaborate with Chicago in its efforts to obtain any approvals, permits and authorizations necessary for the construction and operation of the Tunnel Connection.

C. Chicago Fees. Chicago shall charge Joliet only the applicable standard fees under the Municipal Code of Chicago in connection with any permits, approvals and other items required to design, construct, maintain and repair the Project Elements for which Joliet is responsible under

this Agreement.

8.9. Procurement, Bidding and Contracting. The bidding and contractor selection process, awarding of contracts and other procurement activities for each of the Project Elements located on the Southwest Pumping Station Site or the Durkin Site shall be handled by the Party listed on Exhibit E for that Project Element. The Parties agree that Joliet may use the alternate delivery method known as “construction-manager-at-risk” (“CMAR”) for some or all of the Project Elements primarily located on the Southwest Pumping Station Site or the Durkin Site for which Joliet is listed as the responsible Party.

A. Applicable Procurement and Bidding Requirements.

i. Joliet agrees that when it is contracting for any design or construction of the Project Elements and appurtenances located on the Southwest Pumping Station Site or the Durkin Site, Joliet shall conduct the bidding and Contractor selection process including but not limited to the CMAR process and requirements for, and award of, those contracts pursuant to the laws applicable to Joliet and in compliance with the requirements of Articles III through and including IX of Chapter 2-92 of the Municipal Code of Chicago, including without limitation, the Chicago resident construction worker employment requirements under Section 2-92-330 *et seq.* of the Municipal Code of Chicago and the minority-owned (“MBE”) and women-owned (“WBE”) business enterprise procurement program under Section 2-92-420 *et seq.* of the Municipal Code of Chicago, including the minimum MBE participation goal of twenty-six percent (26%) and minimum WBE participation goal of six percent (6%) of the total contract value to the extent that the requirements do not conflict with any laws applicable to Joliet.

ii. Because the utilization of Certified Firms is essential to the economic vitality of Chicago, if (1) there is a shortfall of the contract participation goals stated in this Subsection 8.9.A(ii), and (2) Joliet or its Contractor has not made a convincing showing that it made good faith efforts to correct the shortfall in connection with said goals, then Chicago will have been harmed in a manner difficult to quantify. Therefore, the Parties agree that in the event of such a shortfall, Chicago may impose upon Joliet or its Contractor a sanction or remedy as provided in Section 2-92-740 of the Municipal Code of Chicago, provided however that Chicago may not impose any such sanction or remedy from both Joliet and its Contractor for the same violation. Any financial remedy paid to Chicago by Joliet or its Contractor under this Subsection 8.9.A(ii) will be placed into a fund to be utilized for support of Chicago’s contracting equity and workforce development programs, and related uses.

iii. Furthermore, if there are significant or continuing shortfalls in participation of Certified Firms for the design and construction of a Project Element for which Joliet is responsible, Chicago may exercise a right of specific performance, an injunction, or any other appropriate equitable remedy, as may be applicable.

iv. Joliet will prepare documents in compliance with Chicago procurement requirements and goals for Project Elements and appurtenances located on the Southwest Pumping Station Site or the Durkin Site. Joliet agrees to comply and cause its Contractor and/or CMAR to comply with said requirements and goals and will require the Contractor and/or CMAR to require any and all Subcontractors or subsidiary Contractors to comply with these requirements and goals. In the event of a conflict between these requirements and goals and the requirements of any grant, loan or other financing being used by Joliet for the New Water Supply Infrastructure, the Parties agree to work in good faith to reach a resolution that will be consistent with Chicago’s procurement goals while

not jeopardizing Joliet's financing for the New Water Supply Infrastructure.

B. Compliance with Applicable Requirements. Joliet and DWM shall coordinate with respect to the requirements in Subsection 8.9.A are complied with for contracting for construction of the Project Elements located on the Southwest Pumping Station Site or the Durkin Site. Joliet shall provide Chicago with copies of Joliet's forms of bidding and CMAR selection process documents for Chicago's review and input.

C. Confidential Information. The Parties agree that all contracts and agreements entered into by each Party and their respective Contractors for Project Elements primarily located on the Southwest Pumping Station Site or the Durkin Site shall include confidentiality provisions requiring them to protect confidential information of each Party. The confidentiality provisions shall be consistent with the terms of all confidentiality agreements in effect between Joliet and Chicago.

8.10. Construction-Related Engineering Services.

A. Responsibilities. The Parties shall perform the responsibilities for Construction-Related Engineering Services in connection with the Construction Contracts for the Project Elements as provided in this Section 8.10 and Exhibit B, unless otherwise mutually agreed by the Parties.

B. Project On-Site Representatives.

i. Chicago and Joliet shall each appoint an on-site representative (respectively, "Chicago Project On-Site Representative" and "Joliet Project On-Site Representative"), who will be a full-time, on-site observer of construction of the Project Elements. A Project On-Site Representative may be a consultant retained by Joliet or Chicago, as applicable. The Project On-Site Representative for the Party holding the Construction Contract for the Project Element shall act as the Resident Engineer for that contract and Project Element. The Project On-Site Representative for the Party not holding the Construction Contract for the Project Element shall act as the Observer for that contract and Project Element. All communication from the Observer shall be directed to the Resident Engineer and not to the Contractor or any Subcontractors or suppliers. All direction to the Contractor for a Project Element shall be made by the Resident Engineer for that Construction Contract.

ii. The Observer shall observe the construction of the Project Elements, attend construction meetings, notify the Resident Engineer and the Commissioner about items of work with respect to the Joliet Project Elements the Observer believes does not conform with the specifications in the Construction Contract ("Project Element Work Anomalies"), perform periodic inspections of a Project Element, and perform additional functions as described in Exhibit B.

C. Off-Site Construction Administrator. The Party holding the Construction Contract for a Project Element shall appoint a Construction Administrator to provide administration services and manage administration of the Construction Contract for the construction of that Project Element. All communication to the Contractor regarding administrative matters shall be made by the Construction Administrator.

D. Inspection.

i. General. The Resident Engineer and the Observer will be on-site on a full-time basis during construction of the various Project Elements and allowed to observe all

aspects of the construction and attend construction meetings. The Observer may provide comments to the Resident Engineer about items of work that the Observer believes do not conform with the specifications in the Construction Contract, which should be promptly communicated and also provided in writing within two (2) Business Days, as practicable, following the date on which the Observer first observed the issue to which the comment pertains. It is understood by the Parties that for matters not observed and communicated by the Observer within two (2) Business Days that are not in conformance with the Construction Contract will still be evaluated for resolution regardless of when they are identified. For matters observed that do not conform with the Construction Contract and are communicated to the Resident Engineer by the Observer but are not resolved, the Observer may notify both Parties that a stop work order is recommended and either the Director of Public Utilities or the Commissioner will review, discuss and issue the stop-work order if warranted for their respective Construction Contracts.

ii. Coordinated Inspections. Prior to the commencement of construction, the Parties will meet and mutually agree on particular components of the Project Element on which they will jointly conduct a coordinated inspection. These inspections may include additional personnel for each Party in addition to the Resident Engineer and the Observer, such as individuals with particular expertise regarding the component being inspected. All comments by the Party not holding the Construction Contract for the Project Element about items of work that the Party believes do not conform with the Construction Contract should be promptly communicated and also provided in writing through the Observer to the Resident Engineer within two (2) Business Days, as practicable, following the date on which the inspection was performed. The Parties may mutually agree to conduct additional coordinated inspections (which may be re-inspections) of particular components during the performance of the work.

iii. Final Inspections. When the Contractor has reached substantial completion of a Project Element, the Parties will jointly conduct a coordinated inspection of the entire Project Element. These inspections may include additional personnel for each Party in addition to the Resident Engineer and the Observer, such as individuals with particular expertise regarding various components being inspected. All comments by the Party not holding the Construction Contract for the Project Element about items of work that the Observer believes do not conform with the Construction Contract should be promptly provided in writing through the Observer to the Resident Engineer within ten (10) Business Days, as practicable, following the date on which the inspection was performed. The Parties will conduct additional coordinated inspections as necessary until the Project Element is ready for final acceptance.

iv. Comment Resolution. The Resident Engineer shall be responsible to resolve all written comments received from the Observer. The Resident Engineer will promptly meet with the Observer and review the Observer's written comments. If the comment cannot be easily resolved in the field, or if there is not mutual agreement on its resolution, the comment will be discussed by the Commissioner and the Director of Public Utilities. If a matter is not resolved with a Change in the Construction Contract pursuant to Section 8.11, there is still no resolution, then the comment resolution will be decided by the Party that will own the Project Element upon completion. Approvals of comment resolution may not be unreasonably withheld, delayed or denied.

v. Permit Inspections. Review of plans, construction and installation of the Project Elements will be subject to certain inspections by Chicago departments under whose jurisdiction said work is done and which will issue permits under applicable Laws and regulations. In the event of a conflict between the permit inspector and the Observer,

the permit inspector's approval will control and govern for work performed under the permit issued by the inspector's department.

E. Construction Submittals. The Construction Administrator will review the Contractor's submittals. For Project Elements to be owned by Chicago (Tunnel Extension, Low Service Pump Station, Chicago Service Valve), electronic copies of all approved submittals will be provided to Chicago for its record. If the document submitted (such as a shop drawing, RFI (request for information) or other required document) proposes a change to the Construction Contract which is reviewed and recommended by the Construction Administrator and Resident Engineer, the change process described in Section 8.11 will be followed.

8.11. Changes in Project Element Construction Contract.

The Parties agree that Changes may be necessary from time to time during the construction of the Project Elements primarily located on the Southwest Pump Station Site and the Durkin Site, and agree that the principles in this Section 8.11 will apply to the review and approval of various categories of Changes:

A. Submission and Approval. Submission and approval of proposed Changes shall be subject to the following:

i. For all Project Elements: All proposed Changes that result in the change of the location of any of the Project Elements must be submitted by Joliet to the Observer for Chicago and is subject to approval by Chicago.

ii. For the Tunnel Connection: All proposed Changes that will limit or reduce the capacity of the Tunnel Connection must be submitted by Chicago to the Observer for Joliet and is subject to Joliet's approval.

iii. For Project Elements Chicago will own (Tunnel Extension, Low Service Pump Station, Chicago Service Valve): Prior to construction, the Resident Engineer and Observer will develop a process for the Observer to review and approve minor changes in the field. All other Changes must be submitted by Joliet to the Observer for Chicago and are subject to approval by Chicago.

iv. For Project Elements Joliet will own (Meter Vault, Suction Well and High Service Pump Station): All proposed Changes to the Project Elements Joliet will own that will affect the operations of the Chicago Water System must be submitted by Joliet to the Observer for Chicago and are subject to approval by Chicago. All proposed Changes to the Meter Vault that will affect the accuracy of the meters in the Meter Vault must be submitted by Joliet to the Observer for Chicago and are subject to approval by Chicago. All proposed Changes to the Suction Well and High Service Pump Station that will affect the air gaps at those Project Elements must be submitted by Joliet to the Observer for Chicago and are subject to approval by Chicago.

B. Procedures for Changes.

i. All proposed Changes to the Construction Contract for a Project Element required to be submitted to a Party pursuant to this Section 8.11 shall be submitted by the Resident Engineer to the other Party's Observer and shall include the documentation substantiating the need for that Change.

ii. The Parties agree that the Resident Engineer and Observer will consult with each other, by meeting in person, by electronic communications or both, regarding Changes that are submitted.

iii. The Observer receiving the Change should provide initial feedback within two (2) Business Days, as practicable, and a formal response within ten (10) Business Days, as practicable which time period may be extended or reduced by mutual agreement of the Parties based on the extent and urgency of the Change being proposed. The response may be to approve the Change or disapprove the Change. A Party may disapprove a Change only for items that require that Party's approval under Subsection 8.11.A. In the event of a disapproval, the Resident Engineer and the Observer shall consult with each other to determine if there is a modification to the Change that would be mutually agreed and approved.

iv. If a Change is due to an emergency situation, the Parties will give such notice to each other and consult with each other as may be practicable under the circumstances. If the Observer is absent or cannot be reached, the Party requesting the Change will proceed to address the emergency situation and notify the Observer for the other Party promptly thereafter.

v. If the Party not proposing the Change does not respond to the proposed Change, the Party proposing the Change will proceed in good faith and its best judgment and notify the other Party's through its Observer.

vi. The Parties will coordinate and work in good faith to avoid any unreasonable delays in responding to requests for Change.

8.12. Start-Up of New Water Supply Infrastructure in Chicago. The Party holding the Construction Contract for a Project Element shall be responsible for performing the procedures necessary for initial start-up of that Project Element. Because the eight Project Elements within Chicago corporate boundaries must work together in a coordinated fashion to deliver and receive Water, the Parties will cooperate in performing the start-up procedures for these Project Elements.

8.13. Construction Cost Totals. The Party responsible for design of the Project Element is also the Party responsible for awarding the Construction Contract (pursuant to Section 8.3), and shall provide the following cost information to the other Party at the times designated below:

A. an opinion of probable construction cost for each Project Element primarily located on the Southwest Pumping Station Site or the Durkin Site at each design milestone (10%, 30%, 60%, 90%);

B. the contract price for each Project Element primarily located on the Southwest Pumping Station Site or the Durkin Site at the time of award of the Construction Contract; and

C. updated construction costs for such Project Element at appropriate intervals during construction.

8.14. Transfer of Ownership of Certain Project Elements.

A. Joliet's transfer of the Conveyed Water Infrastructure shall take place upon Chicago's acceptance of the Conveyed Water Infrastructure and confirmation that all amounts required to be paid by Chicago for construction of each Project Element have been paid.

B. Chicago's acceptance of the Conveyed Water Infrastructure shall be contingent on:

i. the Conveyed Water Infrastructure's completion in compliance with the Design Intent approved by Chicago and Joliet subject to modification pursuant to the Change process in Section 8.11, notwithstanding minor punch-list items documented as of the date of the transfer which do not affect Chicago's ability to operate the Chicago Water System. The Contractor responsible for resolving said minor punch-list items documented as of the date of the transfer shall do so in a timely fashion and as required by Chicago; and

ii. the Joliet New Water Supply Infrastructure and the Conveyed Water Infrastructure's testing, flushing, disinfection, start-up and commissioning. Joliet and Chicago will jointly develop a plan for said testing, flushing, disinfection, and commission during which Chicago personnel shall be present.

C. Transfer documents shall be in a form mutually acceptable to the Parties and the warranties to be assigned shall be those provided by the Contractor for each of the Conveyed Water Infrastructure Project Elements. Upon completion of the required transfers and assignments, the transfer of the Project Elements and warranties shall be final and Chicago will be the owner and sole operator of those Project Elements.

D. Subject to other requirements of this Section 8.14, Joliet's transfer of the Conveyed Water Infrastructure shall take place prior to Partial Delivery unless otherwise mutually agreed to by the Parties.

8.15. Coordination of Communications and Public Education and Outreach.

A. Coordination by the Parties. Chicago and Joliet agree to coordinate in communicating with affected government agencies and officials, community organizations, and the public regarding the design and construction of the Project Elements within Chicago's corporate boundaries, in order to enhance understanding about the nature and extent of the construction and the ongoing use of the Chicago New Water Supply Infrastructure and Joliet New Water Supply Infrastructure for the provision of water supply to Joliet and the changes to Durkin Park for future use by the public. This communication will be developed and implemented to achieve these and other mutually agreed objectives, and could be accomplished by a variety of means, including meetings with appropriate agencies, officials and organizations; distribution of information via various means such as newsletters, websites, social media, signage; and other methods to be developed.

B. Role of Chicago. Chicago will be primarily responsible for these types of communication and public education and outreach in connection with the construction of Project Elements within Chicago's corporate boundaries and will include coordination with Chicago's Director of Public Affairs and Deputy Commissioner, Regional Partnerships, both in the DWM, and the office of the 18th Ward Alderman, as appropriate.

C. Role of Joliet. Joliet will support Chicago in Chicago's efforts under this Subsection 8.15.C.

8.16. New Water Supply Infrastructure Outside Chicago. Joliet shall provide such portions of the New Water Supply Infrastructure located outside the Chicago corporate boundaries as are necessary to transmit Water from the Transmission Main-Chicago to the Joliet region, sufficient to serve all Joliet Customers.

8.17. New Water Supply Infrastructure Beyond Point of Demarcation. Chicago will not be responsible for the New Water Supply Infrastructure located downstream of the Point of Demarcation.

ARTICLE 9. FINANCING THE NEW WATER SUPPLY INFRASTRUCTURE

9.1. Financing the New Water Supply Infrastructure.

A. Chicago shall obtain sufficient financing for payment of the entire costs of the Tunnel Connection, the Tunnel Extension, the Low Service Pump Station, and the Chicago Service Valve (“Chicago Sufficient Financing”).

B. Joliet shall obtain sufficient financing for payment of (1) the entire costs of the Meter Vault, the Suction Well, the High Service Pump Station and the Transmission Main; (2) all the costs relating to the real estate transactions necessary to effect this Agreement, including, but not limited to the Easements and the Durkin Temporary Construction Easement Agreement; and (3) the costs of the New Water Supply Infrastructure outside of the Chicago corporate boundaries including all related appurtenances (collectively, “Joliet Sufficient Financing”).

9.2. Financing Plans.

A. Six (6) months before the start of the bidding and award period for Construction Contracts or the approval of a Construction Contract with a CMAR (“Bidding and Award Period Start Date”) for the following:

- i. the Tunnel Extension, Low Service Pump Station and Chicago Service Valve, Joliet shall provide notice to Chicago of the applicable Bidding and Award Period Start Date; and
- the Tunnel Connection, Chicago shall provide notice to Joliet of the applicable Bidding and Award Period Start Date.

B. Four (4) months prior to the Bidding and Award Period Start Date for:
the construction of any one or more of the Tunnel Extension, Low Service Pump Station and Chicago Service Valve, Joliet shall present to Chicago a written financing plan describing Joliet’s plan to procure the Joliet Sufficient Financing; and
Chicago shall present to Joliet a written financing plan describing Chicago’s plan to procure the Chicago Sufficient Financing.

Each financing plan shall include a timetable of transactions, dollar amount of the transactions and funding source, and may be amended at any time by the Parties.

9.3. Chicago Inability to Obtain Sufficient Chicago Financing. If Chicago is unable to obtain the Chicago Sufficient Financing, in whole or in part, Joliet may elect to procure all or a portion of the financing for the Chicago New Water Supply Infrastructure (“Substitute Chicago Financing”) pursuant to the terms of this Section 9.3 as follows:

A. Chicago shall provide written notice to Joliet that it is unable to obtain Chicago Sufficient Financing as soon as practicable for each anticipated transaction included in Chicago’s financing plan for which Chicago is unable to obtain Chicago Sufficient Financing.

B. Joliet shall have thirty (30) days to provide written notice to Chicago whether Joliet elects to procure Substitute Chicago Financing.

C. Joliet shall notify Chicago of the key terms of the proposed Substitute Chicago Financing, including the time period for which the Substitute Chicago Financing is anticipated to be available. The Substitute Chicago Financing is subject to approval by Chicago in its sole discretion in writing. Chicago shall notify Joliet whether it approves or rejects such Substitute Chicago Financing within sufficient time for Joliet to obtain such financing under the key terms proposed.

D. Upon receipt of such approval, Joliet may proceed to obtain the Substitute Chicago Financing.

E. The Parties agree that the Substitute Chicago Financing shall not be secured by the full faith and credit of Chicago as a general obligation, nor shall the Substitute Chicago Financing encumber the infrastructure of the Chicago Water System.

9.4. Joliet Inability to Obtain Joliet Sufficient Financing. If Joliet is unable to obtain the Joliet Sufficient Financing for the Joliet New Water Supply Infrastructure in whole or in part, Chicago may explore the option of providing financing (“Substitute Joliet Financing”) to Joliet for all or a portion of the Joliet New Water Supply Infrastructure if requested by Joliet pursuant to the terms of this Section 9.4. Joliet may consider but is not obligated to approve and accept such Substitute Joliet Financing.

A. If Joliet wishes to request that Chicago provide the option of Substitute Joliet Financing, Joliet shall provide written notice to Chicago that it is unable to obtain Joliet Sufficient Financing as soon as practicable for each anticipated transaction included in Joliet’s financing plan.

B. Chicago shall have thirty (30) days to provide written notice to Joliet whether Chicago proposes to obtain Substitute Joliet Financing.

C. The Parties agree that approval of the proposed Substitute Joliet Financing is subject to Joliet’s approval at the sole discretion of Joliet.

D. Chicago shall notify Joliet of the key terms of the proposed Substitute Joliet Financing, including the time period for which the Substitute Joliet Financing is anticipated to be available. Joliet shall notify Chicago whether it approves, or rejects, such Substitute Joliet Financing within sufficient time for Chicago to obtain such financing under the key terms proposed.

D. Upon receipt of such approval, Chicago shall proceed to obtain the Substitute Joliet Financing.

E. The Parties agree that the Substitute Joliet Financing shall not be secured by the full faith and credit of Joliet as a general obligation, nor shall the Substitute Joliet Financing encumber the infrastructure of the Joliet Water System.

9.5. Status Reports of Procurement. Joliet and Chicago shall each provide the other Party with a status of the procurement of the Joliet Sufficient Financing or Chicago Sufficient Financing, as applicable, on an annual basis, and shall promptly notify the other Party in the event of a material change in said Party’s financing plan.

9.6. Joliet Termination for Inability to Procure Financing. In the event Joliet is unable to procure Joliet Sufficient Financing for the New Water Supply Infrastructure, then Joliet may terminate this Agreement pursuant to the terms of Article 6.

9.7. Joliet-Constructed Chicago New Water Supply Infrastructure Financing and Funding.

A. Chicago Funding of Joliet-Constructed Chicago New Water Supply Infrastructure. Chicago and Joliet agree that Chicago shall make available funds sufficient to pay for the construction of the Tunnel Extension, Low Service Pump Station and Chicago Service Valve to be constructed by Joliet (collectively, “Joliet-Constructed Chicago New Water Supply Infrastructure”) up to the Joliet-Constructed Chicago New Water Supply Infrastructure Cost (as defined in this Agreement) and as provided in this Subsection 9.7.A. Chicago shall fund the costs of construction of the Joliet-Constructed Chicago New Water Supply Infrastructure as said costs are incurred by Joliet during the period until all payments required pursuant to the Construction Contracts for the Joliet-Constructed Chicago New Water Supply Infrastructure have been paid.

B. Cost of Joliet-Constructed Chicago New Water Supply Infrastructure. Joliet has provided information to Chicago, and Chicago understands that the cost of Joliet-Constructed Chicago New Water Supply Infrastructure is, as of the Effective Date, estimated to be up to sixty-five million dollars (\$65,000,000) (“Joliet-Constructed Chicago New Water Supply Infrastructure Cost”). As provided in Section 17.2, for purposes of the calculation of the Charged Water Rate as provided in this Agreement, the Joliet-Constructed Chicago New Water Supply Infrastructure Cost amount shall be adjusted accordingly so that the fair value net plant investment of the Joliet-Constructed Chicago New Water Supply Infrastructure shall be calculated based on the actual cost incurred by Chicago for the Joliet-Constructed Chicago New Water Supply Infrastructure.

C. Chicago Appropriation for Financing Relating to Agreement. The City Council, pursuant to that certain ordinance enacted on April __, 2023 (“Chicago Appropriation Ordinance”), has appropriated the amount of sixty-five million dollars (\$65,000,000) for the purposes of financing the Joliet-Constructed Chicago New Water Supply Infrastructure Costs. If the Joliet-Constructed Chicago New Water Supply Infrastructure Costs increase to an amount in excess of said appropriation and Chicago agrees to such an increase, Chicago shall present an additional appropriation before the Chicago City Council for its consideration and approval.

D. Chicago and Joliet agree that two (2) months before the Bidding and Award Period Start Date, Chicago shall have a Joliet-Constructed Chicago New Water Supply Infrastructure funding source available for disbursement under the terms of this Agreement.

E. Preconditions of Disbursements of Funds for Joliet-Constructed Chicago New Water Supply Infrastructure. Prior to each disbursement of funds for the Joliet-Constructed Chicago New Water Supply Infrastructure, but not more often than once a month, Joliet shall submit to Chicago a disbursement request (“Disbursement Request”) with copies of supporting documentation including but not limited to engineering certificates, invoices, final statements, final estimates and such other documentation required by Chicago. Chicago shall promptly review each Disbursement Request and, if satisfactory to Chicago, it shall be approved by Chicago in its reasonable discretion. Chicago shall have thirty (30) days from receipt of the Disbursement Request to approve or deny the Disbursement Request or request additional information from Joliet. If approved, Chicago will release the funds in a manner mutually agreed by the Parties. In the event of denial, Chicago shall provide an explanation of the reasons for the denial and Joliet will have the opportunity to provide updated or revised information to address the reasons for denial. Delivery by Joliet to Chicago of each Disbursement Request shall constitute a certification to Chicago, as of the date of such Disbursement Request, that:

- i. the total amount of the Disbursement Request represents the actual amount payable to (or paid to) a Contractor and/or Subcontractors or other parties and/or

their payees who have performed work, or provided goods or services with respect to the Joliet-Constructed Chicago New Water Supply Infrastructure;

ii. all amounts shown as previous payments on the current Disbursement Request have been paid to the parties entitled to such payment;

iii. Joliet has approved all work and materials for the current Disbursement Request, and such work and materials conform to the Chicago New Water Supply Infrastructure plans and specifications;

iv. the representations and warranties contained in this Agreement are true and correct and Joliet is in compliance with all covenants contained herein;

v. Joliet has received no notice and has no knowledge of any liens or claim of lien either filed or threatened against the Joliet-Constructed Chicago New Water Supply Infrastructure;

vi. no Event of Default or condition or event which, with the giving of notice or passage of time or both, would constitute an Event of Default under this Agreement exists or has occurred;

vii. Joliet has taken no action or omitted to take action which could have the effect of causing interest on any Chicago tax-exempt line of credit or other obligation to be includable in gross income for federal income tax purposes under the Internal Revenue Code; and

viii. Chicago may require Joliet to submit further documentation to verify that the matters certified to above are correct, and any disbursement shall be subject to Chicago's review and approval of such documentation and its satisfaction that such certifications are true and correct; provided, however, that nothing in this sentence shall be deemed to prevent Chicago from relying on such certifications by Joliet. In addition, Joliet shall have satisfied all other preconditions of disbursement of funds for Joliet-Constructed Chicago New Water Supply Infrastructure for the Disbursement Request, including but not limited to requirements set forth in this Agreement.

F. Use of Funds for Joliet-Constructed Chicago New Water Supply Infrastructure. Funds provided for Joliet-Constructed Chicago New Water Supply Infrastructure may only be used to pay or to reimburse Joliet or to make payments as directed by Joliet, for the costs of the Joliet-Constructed Chicago New Water Supply Infrastructure. Joliet agrees not to use the Joliet-Constructed Chicago New Water Supply Infrastructure funds in any manner which would adversely affect the exclusion of the interest on a tax-exempt obligation, if any, issued by Chicago in connection with funding for the Joliet-Constructed Chicago New Water Supply Infrastructure from the gross income of the recipients of said tax-exempt obligation for federal income tax purposes, and shall act in compliance with all applicable Laws and regulations under the Internal Revenue Code.

ARTICLE 10. REAL ESTATE MATTERS

10.1. Real Estate for Chicago New Water Supply Infrastructure and Joliet New Water Supply Infrastructure. In order to enable the delivery of Water by Chicago to Joliet, the Parties have agreed that additional facilities must be provided in proximity to Chicago's Southwest Pumping Station, and that certain real estate transactions will be necessary for those facilities, as described in this Article 10.

A. The Chicago New Water Supply Infrastructure will be located on the Southwest Pumping Station Site.

B. The Joliet New Water Supply Infrastructure will be located within the Chicago corporate boundaries, with a portion located on the Southwest Pumping Station Site and a portion located on the Durkin Site.

10.2. Durkin Park and the Durkin Site. On or before July 31, 2023, unless otherwise mutually agreed by the Parties:

A. Chicago will acquire from CPD, and CPD will transfer to Chicago, title to the Durkin Site pursuant to and in accordance with the terms of the IGA, for use in support of the Chicago Water System, specifically for the construction and operation of the Suction Well.

B. The IGA was originally approved by the Chicago Plan Commission on April 15, 2021, pursuant to Resolution Number 21-011-21, and is authorized by an ordinance adopted by the Chicago City Council on July 21, 2021, and published in the Journal of the Proceedings of the City Council for such date at pages 32846 through 32859, and by a resolution adopted by the Board of Commissioners of CPD on July 16, 2021.

C. Chicago and CPD will enter into a lease whereby Chicago shall lease a portion of the surface area of the Durkin Site to CPD to ensure the continued use of the Durkin Site as a public park; provided, however, CPD's right to use and enjoy the surface area of the Durkin Site shall be paused during construction of the Joliet New Water Supply Infrastructure and restoration of Durkin Park by Joliet.

D. Chicago will grant an easement to Joliet pursuant to the Durkin Site Easement pursuant to which, among other things, Chicago will grant Joliet a "permanent" easement (coterminous with this Agreement, unless terminated earlier in accordance with Section 3 of the Durkin Site Easement) on the Durkin Site for the construction, operation and maintenance, and permanent placement of a portion of the Joliet New Water Supply Infrastructure and related appurtenances.

E. The Parties agree and acknowledge that under the terms of the IGA, ownership of the Durkin Site will revert from Chicago back to CPD following the Termination or the expiration of this Agreement, upon which all of the Easements will terminate, as provided under the terms of said Easements; provided, however, that such reversion of title shall not occur (although the termination of Easements shall still occur) if Joliet has commenced construction of the Joliet New Water Supply Infrastructure on the Durkin Site.

F. CPD will enter into a Durkin Temporary Construction Easement Agreement with Joliet, pursuant to which, among other things, CPD will grant to Joliet temporary easement areas on a portion of Durkin Park for use during the construction of and permanent placement of a portion of the Joliet New Water Supply Infrastructure and related appurtenances on the Durkin Site and for future construction, maintenance and repair.

10.3. Southwest Pumping Station Site. Chicago and Joliet will enter into the Southwest Pumping Station Site Easement, pursuant to which, among other things, a portion of the Joliet New Water Supply Infrastructure and related appurtenances shall be constructed, owned, operated and maintained at the Southwest Pumping Station Site and shall include the grant to Joliet of two (2) permanent easements and seven temporary easements.

10.4. Compensation.

A. Joliet hereby agrees to pay all of the costs of certain restorations and improvements to the Durkin Site and the Durkin Temporary Construction Easement Area including but not limited to the construction of a new natural grass turf field or any other improvement on the Durkin Site and/or the Durkin Temporary Construction Easement Area mutually agreed upon up to the value of an artificial turf, junior-size soccer field.

B. Joliet agrees to pay to CPD the aggregate amount of One Million Seven Hundred and Fifty Thousand dollars (\$1,750,000) within thirty (30) days after execution of this Agreement to compensate for the disruption of Chicago's residents' use of the Durkin Site during construction. CPD shall use the \$1,750,000 payment to construct improvements at other CPD locations in the area, as provided in the IGA.

C. The Parties acknowledge that Joliet will pay to Chicago the agreed-upon valuation of the two (2) permanent easements and seven (7) temporary easements pursuant to the Southwest Pumping Station Site Easement and the agreed-upon valuation of the Durkin Site within thirty (30) days after execution of the Southwest Pumping Station Site Easement Agreement and the Durkin Site Easement Agreement, respectively.

ARTICLE 11. WATER PURCHASE AND SALE; QUANTITY AND CAPACITY

11.1. Delivery of Water.

A. General. Chicago shall deliver to Joliet at the Point of Demarcation, and Joliet shall purchase and take from Chicago, a supply of Water pursuant and according to the terms of this Agreement. The quantity of Water to be delivered by Chicago at various times during the Term will be determined according to the following provisions and subject to Sections 11.7 and 11.8:

- i. the quantity of Water to be provided by Chicago is governed by Section 11.2;
- ii. State Water Allocations are governed by Section 11.3;
- iii. the schedule for Water delivery by Chicago is governed by Section 11.4;
- iv. the addition of Subsequent Purchasers is governed by Section 11.5; and
- v. the removal of Subsequent Purchasers is governed by Section 11.6.

B. Water for Joliet and Joliet Customers. All Water provided will be for Joliet and the Joliet Customers, except as provided in Section 11.9 or as otherwise authorized by Chicago.

C. Uniform Rate of Water Delivery. Chicago shall deliver Water to Joliet from the Chicago Water System at the Point of Demarcation at as uniform a rate as practicable during the twenty-four (24) hours of each day; notwithstanding the foregoing, either Party may request a non-uniform flow to which the other Party may agree in its reasonable discretion.

D. Title to Water. Title to all Water delivered by Chicago shall remain with Chicago upstream of the Point of Demarcation. Joliet shall take title to the delivered Water at the Point of Demarcation and shall deem the Water as having been delivered by Chicago.

11.2. Quantity of Water.

A. Daily Quantity. Chicago shall deliver Water to Joliet on any day in an amount as requested by Joliet; provided, however, that Chicago shall not be obligated to deliver an amount exceeding the lesser of (i) Guaranteed Maximum Capacity or (ii) Contractual Maximum Day Demand.

B. State Water Allocations. The quantities of Water shown on Exhibit A for the Allocation Amounts shall be the quantities allocated in the State Water Allocation, as modified or extended from time to time, for each of Joliet and the Subsequent Purchasers.

C. Then-Current LSPS Capacity. Chicago agrees that it will be able to provide Water at the Then-Current LSPS Capacity at all times on and after the Targeted Water Delivery Date and during the Term, except as otherwise provided by this Agreement.

D. Guaranteed Maximum Capacity. As of the Effective Date, the Chicago Water System has sufficient capacity to supply Water to Joliet for Joliet and the Joliet Customers in amounts up to and including Guaranteed Maximum Capacity. During the Term, Chicago shall maintain and reserve sufficient capacity to supply Water to Joliet and the Joliet Customers in amounts up to and including Guaranteed Maximum Capacity which as of the Effective Date is one hundred and five (105) MGD. Any increase in Guaranteed Maximum Capacity is subject to the process in Section 11.7.

E. Modifications to Exhibit A. Modifications to Exhibit A to reflect changes in State Water Allocations of Joliet and the Subsequent Purchasers and the addition of State Water Allocations for new Subsequent Purchasers will be made as provided in this Subsection 11.2.E. If any of the following events occur, Joliet shall promptly notify Chicago and provide an updated Exhibit A that is consistent with the applicable State Water Allocation. Such an updated Exhibit A shall replace the then-existing Exhibit A; approval of such updated Exhibit A by either Party shall be required only as provided in those portions of Section 11.5 and Section 11.7, if any, that are applicable to the particular event.

i. If the State Water Allocation of Joliet or any then-current Subsequent Purchaser is modified to (i) change the quantities of Water allocated therein or (ii) change the Water Years included therein; provided, however, that if such a modification will result in a change in Water quantity to be provided by Chicago to Joliet as described in Subsections 11.7.B or 11.7.C, then the procedures in the applicable Subsection shall apply;

ii. If Joliet proposes to add a new Subsequent Purchaser meeting the criteria in Subsection 11.5.A(i); provided, however, that if Chicago approves of the addition of the new Subsequent Purchaser and such an addition will result in a change in Water quantity to be provided by Chicago to Joliet as described in Subsections 11.7.B or 11.7.C, then the procedures in the applicable Subsection shall apply;

iii. If Joliet proposes to add a new Subsequent Purchaser meeting the criteria in Subsection 11.5.A(ii), then the procedures in Subsection 11.7.C shall apply;

iv. If Joliet proposes to add a new Subsequent Purchaser meeting the criteria in Subsection 11.5.B(i), then no additional procedures in Section 11.7 shall apply;

v. If Joliet proposes to add a new Subsequent Purchaser meeting the criteria in Subsection 11.5.B(ii), then the procedures in the Subsection 11.7.B shall apply.

If the quantities of Water in the updated Exhibit A result in a change in the amount of a then-required Partial Delivery or Full Delivery, then Chicago shall promptly deliver Water at the updated amount of Partial Delivery or Full Delivery unless (x) such updated amount exceeds the lesser of Guaranteed Maximum Capacity or Contractual Maximum Day Demand; or (y) additional infrastructure is required pursuant to Sections 11.5 and 11.7, in which case the delivery of Water at the updated amount (not to exceed the lesser of Guaranteed Maximum Capacity or Contractual Maximum Day Demand) will commence promptly after completion of the necessary infrastructure.

11.3. Allocations.

A. Permits Required. Permits for a State Water Allocation shall be obtained and maintained as follows for all Water provided by Chicago to Joliet:

i. Joliet. Joliet shall maintain a permit for a State Water Allocation for all Water to be supplied to Joliet by Chicago for use by Joliet (excluding Subsequent Purchasers). Joliet's State Water Allocation amounts are as described in Exhibit A.

ii. Subsequent Purchasers. Joliet shall require each Subsequent Purchaser to obtain and maintain a permit for a State Water Allocation for all Water to be supplied to that Subsequent Purchaser from Joliet. Each Subsequent Purchaser's State Water Allocation amount is as described in Exhibit A.

11.4. Schedule for Water Delivery. Chicago agrees that it will be ready and able to provide an amount of Water not to exceed the lesser of Guaranteed Maximum Capacity or Contractual Maximum Day Demand, as of the Targeted Water Delivery Date subject to (i) Chicago substantially completing construction of the Tunnel Connection by the Targeted Water Delivery Date, and (ii) Joliet substantially completing construction of the Chicago New Water Supply Infrastructure (other than the Tunnel Connection), both in a manner sufficient to supply Water to Joliet. Chicago's obligation to deliver Water to Joliet (other than with respect to Initial Water for Testing) will not commence prior to the Targeted Water Delivery Date. The Parties anticipate that delivery of Water to Joliet will be commenced in several phases in different amounts and shall confer and agree on an estimated schedule for the commencement of provision of Initial Water for Testing, Partial Delivery or Partial Deliveries (which includes Ongoing Water for Testing), Initial Full Delivery and Full Delivery of Water to Joliet. The Parties agree that any and all Partial Delivery, Initial Full Delivery, or Full Delivery of Water by Chicago at the Point of Demarcation and all obligations related to such deliveries are also subject to: (i) Chicago substantially completing construction of the Tunnel Connection by the Targeted Water Delivery Date, and (ii) Joliet substantially completing construction of the Chicago New Water Supply Infrastructure (other than the Tunnel Connection), both in a manner sufficient to supply Water to Joliet. In addition, the Parties shall confer and agree on a schedule for any New Deliveries for Subsequent Purchasers as provided in Section 11.5.

A. Initial Water for Testing. Once construction of the New Water Supply Infrastructure has commenced and prior to any Partial Delivery, Chicago shall furnish to Joliet the Initial Water for Testing as designated by Joliet and required by this Subsection 11.4.A; provided, however, that the amount of Initial Water for Testing shall not exceed the lesser of Guaranteed Maximum Capacity or Contractual Maximum Day Demand.

i. Intermittent Supply. Testing and construction will require certain quantities of Water on an intermittent and periodic basis, and may be Hydrant Water, Water delivered through the New Water Supply Infrastructure, or Water delivered through other portions of the Chicago Water System or the infrastructure of another Chicago Wholesale Customer. For all requests for Water other than Hydrant Water, Joliet shall notify Chicago

pursuant to, and providing the information required by, Subsection 11.4.A(v).

ii. Hydrant Water. If Joliet or its Contractor shall apply for a permit from Chicago to obtain Hydrant Water for use in testing and construction, such permit shall not be unreasonably withheld or delayed by Chicago.

iii. Water Delivered Via the New Water Supply Infrastructure. After the Targeted Water Delivery Date and upon notice pursuant to Subsection 11.4.A(v), Chicago shall make available Initial Water for Testing to Joliet via the New Water Supply Infrastructure, in an amount not exceeding the lesser of Guaranteed Maximum Capacity or Contractual Maximum Day Demand. Chicago agrees to discuss with Joliet any request that Joliet may make if Joliet determines that it requires Initial Water for Testing prior to the Targeted Water Delivery Date and Chicago shall provide such Water to Joliet, if possible. Water provided under this Subsection iii is subject to notice under Subsection 11.4.A(v).

iv. Water Delivered Via Other Infrastructure. Chicago will cooperate with Joliet to make Water available to Joliet (in an amount not exceeding the lesser of Guaranteed Maximum Capacity or Contractual Maximum Day Demand) for such testing and construction from other portions of the Chicago Water System or the infrastructure of another Chicago Wholesale Customer. If delivery of Water from other portions of the Chicago Water System for such testing and construction is not practicable, Chicago will cooperate with Joliet in efforts to obtain Water (which may not need to be potable) for testing and construction purposes from one or more Chicago Wholesale Customers or a subsequent purchaser of another Chicago Wholesale Customer, including providing such authorizations, approvals and other documents as are necessary for such Chicago Wholesale Customer or subsequent purchaser to provide Water to Joliet for testing and construction. Water provided under this Subsection 11.4.A(iv) is subject to notice under Subsection 11.4.A(v) and applicable Law. Chicago shall not be liable for any refusal by another Chicago Wholesale Customer or a subsequent purchaser of another Chicago Wholesale Customer to supply Water to Joliet.

v. Notice. Joliet shall notify Chicago not less than fifteen (15) days prior to testing and construction of all or any portion of the New Water Supply Infrastructure that requires Water (other than Hydrant Water) from Chicago, or from one or more Chicago Wholesale Customers or a subsequent purchaser of a Chicago Wholesale Customer in order to complete such testing and construction. This notice will include the anticipated date and time of planned testing, the portion and location of the New Water Supply Infrastructure requiring testing or construction, the location of the point of connection for the Water to be supplied, and the estimated quantity of Initial Water for Testing required for such testing or construction. Notice under this Subsection 11.4.A(v) is not required for Hydrant Water.

B. Partial Deliveries; Initial Full Delivery. In order to achieve Initial Full Delivery, Chicago will be ready and able to deliver Water to Joliet in one or more Partial Deliveries on one or more dates provided by Joliet to Chicago, none of which shall be earlier than the Targeted Water Delivery Date and none of which, individually or collectively, shall exceed the lesser of Guaranteed Maximum Capacity or Contractual Maximum Day Demand.

i. Continuous Supply. All Partial Deliveries and Initial Full Delivery will require Water delivery to Joliet to be provided as a continuous and ongoing Water supply, twenty-four (24) hours a day, seven (7) days a week.

ii. Notice. When Joliet has completed initial testing of all or a portion of the New Water Supply Infrastructure and is ready to begin receiving one or more Partial Deliveries or Initial Full Delivery of Water from Chicago for delivery to Joliet Customers, Joliet shall notify Chicago that it is ready to receive Water from Chicago. This notice will be given not less than fifteen (15) days prior to the first day of each Partial Delivery or Initial Full Delivery. Notice of each Partial Delivery will include (a) the anticipated date and time of commencement of each Partial Delivery and the estimated quantity of Water to be provided in that Partial Delivery, and (b) the anticipated date and time of commencement of Initial Full Delivery and the estimated quantity of Water to be provided for Initial Full Delivery at such date and time.

iii. Initial Full Delivery. Chicago agrees that it will be ready and able to deliver Water to Joliet for Initial Full Delivery to Joliet in the quantities specified in Section 11.2 on the date in the notice provided by Joliet to Chicago, which shall not be earlier than the Targeted Water Delivery Date. Initial Full Delivery is anticipated to occur not longer than two (2) years after the date of the first Partial Delivery to the initial Joliet Customers.

iv. Ongoing Water for Testing. Chicago agrees to provide Ongoing Water for Testing to Joliet and its Contractors during the period of Partial Deliveries, as Hydrant Water and as Water delivered by the New Water Supply Infrastructure or other portions of the Chicago Water System. Any Ongoing Water for Testing from the New Water Supply Infrastructure that is required during Partial Deliveries shall be provided as part of the Partial Deliveries. Joliet shall include in its daily quantity request the estimated quantity of Ongoing Water for Testing to be provided.

C. Full Delivery. Chicago will deliver Water to Joliet on any day during Full Delivery in an amount not to exceed the lesser of (i) Guaranteed Maximum Capacity and (ii) Contractual Maximum Day Demand.

i. Continuous Supply. Full Delivery will require Water delivery to Joliet to be provided as a continuous and ongoing Water supply, twenty-four (24) hours a day, seven (7) days a week.

ii. Ongoing Full Delivery. The Parties agree that, from and after the date of the Initial Full Delivery, Chicago will be considered to be providing Full Delivery. Full Delivery can be reached multiple times during the Term.

D. New Deliveries to Subsequent Purchasers. Upon notice from Joliet for a New Delivery, Chicago will increase the quantity of Water delivered to Joliet in an amount equal to the New Delivery designated in such notice for use by a Subsequent Purchaser that is authorized to receive Water pursuant to Section 11.5; provided, however, that such increased amount shall not exceed the lesser of Guaranteed Maximum Capacity or Contractual Maximum Day Demand.

E. Ongoing Full Delivery. Upon implementation, each New Delivery will be included in and considered to be a part of Full Delivery.

11.5. Addition of Joliet Subsequent Purchasers. Joliet will notify Chicago of the addition of any Subsequent Purchaser. The date on which Chicago will provide Water for New Delivery to a Subsequent Purchaser will be mutually agreed by the Parties.

A. Approval Required. Approval of the addition by the Commissioner will be required only if:

i. the Subsequent Purchaser is other than a state agency or unit of local government, then Chicago's approval shall be required, which Chicago may deny in its reasonable discretion, or

ii. the addition of the Subsequent Purchaser will cause the total quantity of Water to be provided to Joliet to exceed Guaranteed Maximum Capacity at any time during the Term, in which case the process in Section 11.7 shall apply.

B. Approval Not Required. Approval of the addition by Chicago will not be required if the addition of the new Subsequent Purchaser:

i. will not cause the total quantity of Water to be provided to Joliet to exceed the Then-Current LSPS Capacity; or

ii. will cause the total quantity of Water to be provided to Joliet to exceed the Then-Current LSPS Capacity but not the Guaranteed Maximum Capacity, in which case the process in Section 11.7 shall apply.

C. Notice. When Joliet is ready to begin receiving a New Delivery, Joliet shall notify Chicago that it is ready to receive Water from Chicago for delivery to such a Subsequent Purchaser. If no increase in Then-Current LSPS Capacity is required, this notice will be given not less than fifteen (15) days prior to the first day of the New Delivery. In the event that the proposed New Delivery will cause the subsequent Full Delivery to exceed the Then-Current LSPS Capacity, Joliet's notice to Chicago of the New Delivery will include both the projections described in Section 11.7 and the proposed New Delivery to the new Subsequent Purchaser, following which the Parties will engage in the process established under Section 11.7. Notice of each New Delivery will include the anticipated date and time of commencement of each New Delivery as well as the estimated quantity of Water to be provided in that New Delivery.

D. Requirements for Subsequent Purchasers. To the maximum extent possible, when a new Subsequent Purchaser has been a direct Chicago Customer immediately prior to entering into an agreement with Joliet, that agreement will provide that delivery of Water to the new Subsequent Purchaser will commence on the first day of the year on which Chicago's water rate is based. As of the Effective Date, that date is January 1. This Agreement does not modify any water supply agreement between Chicago and that direct Chicago Customer.

11.6. Removal of Joliet Subsequent Purchasers. Joliet will notify Chicago of the removal of any Subsequent Purchaser.

A. Approval. Approval by Chicago of the removal of a Subsequent Purchaser is not required.

B. Notice. Joliet shall notify Chicago that a Subsequent Purchaser will no longer be a Subsequent Purchaser of Joliet not less than fifteen (15) days prior to the last day on which the Subsequent Purchaser will purchase Water from Joliet. Notice of removal of a Subsequent Purchaser will include the anticipated date and time of cessation of Water service to that Subsequent Purchaser by Joliet.

11.7. Future Water Demand Analysis; Future Expansions.

A. Projections Required. Joliet shall conduct and perform a future water demand analysis every five years commencing in 2035. Joliet will provide this analysis to Chicago by June 1, 2036 and every five (5) years thereafter during the Term. The analysis will include at least the

following:

- i. A 30-year projection of Projected Average Day Demand and Projected Maximum Day Demand in five-year increments as well as a projection and timeline for these demand levels for future buildout for Joliet and its Subsequent Purchasers;
- ii. A comparison of the Projected Maximum Day Demands with the Then-Current LSPS Capacity and the Guaranteed Maximum Capacity;
- iii. A comparison of the Projected Maximum Day Demands with the capacity of the Joliet New Water Supply Infrastructure; and
- iv. Whether the sum of the Projected Maximum Day Demands of Joliet and the Subsequent Purchasers, as well as any anticipated new Subsequent Purchasers pursuant to Section 11.5, will exceed the Then-Current LSPS Capacity.

Following submission of each future water demand analysis, Joliet and Chicago will meet to discuss the projected demand analysis. During the time between the future water demand analyses, the Parties agree to update, review and confer about the projected capacity analysis as needed.

B. Expansion of Then-Current LSPS Capacity up to the Guaranteed Maximum Capacity.

- i. If the Projected Maximum Day Demand of the Joliet Customers (but not including Emergency Purchasers), which may include any projected new Subsequent Purchasers pursuant to Section 11.5, will exceed the Then-Current LSPS Capacity but will not exceed the Guaranteed Maximum Capacity, then Joliet will notify Chicago of such projections at least five years prior to the date the Projected Maximum Day Demand is projected to exceed the Then-Current LSPS Capacity, or such shorter time as may be mutually agreed by the Parties. The notice shall include the water demand projections and analysis on which Joliet relies and Joliet's requested increase in capacity.
- ii. Promptly after Chicago's receipt of such a notice from Joliet, Chicago and Joliet shall engage in discussions and negotiations to determine how to increase the Then-Current LSPS Capacity to meet the Projected Maximum Day Demand, including, but not limited to the following items:
 - a. The amount of Then-Current LSPS Capacity needed to meet the Projected Maximum Day Demand;
 - b. The agreed-upon improvements or additions to the Low Service Pump Station that are necessary and required to enable Chicago to provide Water in excess of the Then-Current LSPS Capacity and to meet the Projected Maximum Day Demand amounts;
 - c. The associated costs of the agreed-upon improvements or additions; and
 - d. The agreed-upon time frame for completing such improvements or additions.
- iii. Chicago shall pay for and perform all necessary design and construction of the improvements or additions to the Low Service Pump Station required under this

Subsection 11.7.B(iii) The cost of these improvements by Chicago shall be incorporated into the Charged Water Rate as provided in this Agreement.

iv. Joliet shall pay for and perform all necessary design and construction of the necessary improvements or additions to the Joliet New Water Supply Infrastructure necessary to receive the additional quantity of Water from the improvements or additions made by Chicago under this Subsection 11.7.B(iv).

C. Expansion in Excess of the Guaranteed Maximum Capacity.

i. If the Projected Maximum Day Demand of the Joliet Customers (but not including Emergency Purchasers), which may include any projected new Subsequent Purchasers pursuant to Section 11.5, will exceed the Guaranteed Maximum Capacity, then Joliet will notify Chicago. The notice shall include the water demand projections and analysis on which Joliet relies and Joliet's desired increase in Guaranteed Maximum Capacity.

ii. Promptly after Chicago's receipt of such a notice from Joliet, Chicago shall initiate an evaluation of the capacity of the Chicago Water System upstream of the Tunnel Connection and whether it is feasible for Chicago to provide Water in excess of the Guaranteed Maximum Capacity and in amounts sufficient to meet the Projected Maximum Day Demand as provided in the notice from Joliet. Chicago shall notify Joliet when Chicago has completed this evaluation and provide a copy of the evaluation to Joliet. Chicago's determination as to the feasibility of providing such additional Water supply to Joliet as described in the notice from Joliet shall be made in Chicago's sole discretion. For water supply quantities in excess of the Range, the Parties agree to develop a process by which the Parties will evaluate and negotiate those additional or future water supply needs in light of the feasibility of providing such additional supply, based on the capacity of the Chicago Water System at that time and, where possible, such improvements as may be necessary to make it feasible to provide such additional supply.

iii. If Chicago decides to proceed with improvements to the Chicago Water System to provide sufficient Water in excess of the Guaranteed Maximum Capacity to meet the Projected Maximum Day Demand as provided in the notice from Joliet, Chicago and Joliet shall engage in discussions and negotiations to determine the new amount of Guaranteed Maximum Capacity. Upon agreement by the Parties of the new amount of Guaranteed Maximum Capacity, Chicago shall determine and inform Joliet of the following items:

- a. the improvements or additions to the Chicago Water System required to provide Water in excess of the Guaranteed Maximum Capacity and to meet the Projected Maximum Day Demand amount;
- b. the time frame for achieving such improvements or additions to the Chicago Water System; and
- c. the associated costs of the improvements or additions.

Joliet and Chicago shall thereafter promptly engage in discussions and negotiations to reach agreement on any required amendments to this Agreement.

iv. Chicago shall pay for and perform all necessary design and construction of the improvements or additions to the Chicago Water System under this Subsection 11.7.C. The cost of these improvements by Chicago shall be incorporated into Charged Water

Rate as provided in this Agreement.

v. Joliet shall pay for and perform all necessary design and construction of, the necessary improvements or additions to the Joliet New Water Supply Infrastructure necessary to receive the additional quantity of Water from the improvements or additions made by Chicago under this Subsection 11.7.C.

D. This Section 11.7 assumes that the sum of the Allocation Amounts multiplied by two, as set forth in Exhibit A, exceeds the Then-Current LSPS Capacity or exceeds Guaranteed Maximum Capacity. In the event that the sum of the Allocation Amounts multiplied by two, as set forth in Exhibit A, does not exceed the Then-Current LSPS Capacity or does not exceed Guaranteed Maximum Capacity, the Parties shall discuss whether to apply the provisions of this Section 11.7 or whether to agree on another process.

11.8. Maintenance, Emergencies, and Impact on Quantities and Curtailment. Chicago and Joliet agree to communicate regularly about maintenance needs for, and emergencies occurring on, each Party's Water System and to coordinate their actions in a manner so as to minimize any actual or potential impact on the supply of Water to the Joliet Water System and to minimize the actual or potential impact of the operation of the Joliet Water System on the Chicago Water System.

A. Chicago Planned Maintenance. Joliet understands that as part of the operation of the Chicago Water System, Chicago will perform planned maintenance on the Chicago Water System that may or will affect the delivery of Water to Joliet from time to time. Planned maintenance includes four categories, which are defined as follows:

i. Level One Maintenance. Level One Maintenance is planned maintenance by Chicago that may or will cause Chicago to be unable to deliver the Then-Current LSPS Capacity to Joliet but Chicago will be able to deliver the Projected Maximum Day Demand for the Joliet Customers (but not including Emergency Purchasers) during such maintenance. Chicago shall notify Joliet that it plans to perform Level One Maintenance not less than two (2) Business Days prior to commencement of such work.

ii. Level Two Maintenance. Level Two Maintenance is planned maintenance that may or will cause Chicago to be unable to deliver the Projected Maximum Day Demand for the Joliet Customers (but not including Emergency Purchasers) but Chicago will be able to deliver the sum of the Allocation Amounts for Joliet and the Subsequent Purchasers during such maintenance. Chicago shall notify Joliet that it plans to perform Level Two Maintenance not less than thirty (30) days prior to commencement of such work. Chicago will perform all Level Two Maintenance within a timeframe consistent with the Water storage capacity of Joliet and its Subsequent Purchasers.

iii. Level Three Maintenance. Level Three Maintenance is planned maintenance that may or will cause Chicago to be unable to deliver the lesser of the sum of the Allocation Amounts for Joliet and the Subsequent Purchasers or the Projected Average Day Demand for the Joliet Customers (but not including Emergency Purchasers) during all or any portion of such maintenance. Chicago shall notify Joliet that it plans to perform Level Three Maintenance not less than ninety (90) days prior to commencement of such work. Chicago will perform all Level Three Maintenance within a timeframe consistent with the Water storage capacity of Joliet and its Subsequent Purchasers.

iv. Level Four Maintenance. Level Four Maintenance is planned maintenance that may or will cause Chicago to be unable to deliver the lesser of the sum of the

Allocation Amounts for Joliet and the Subsequent Purchasers or the Projected Average Day Demand for the Joliet Customers (but not including Emergency Purchasers) during such maintenance, and that cannot be performed within a timeframe consistent with the Water storage capacity of Joliet and its Subsequent Purchasers. Chicago shall notify Joliet that it plans to perform Level Four Maintenance not less than six (6) months prior to commencement of such work. Chicago shall meet with Joliet during the planning and performance of all Level Four Maintenance so as to minimize the impact of Chicago's inability to deliver the lesser of the sum of the Allocation Amounts for Joliet and the Subsequent Purchasers or the Projected Average Day Demand for the Joliet Customers (but not including Emergency Purchasers) during such maintenance. Chicago shall take such actions, including without limitation making and expediting repairs or adjustments, as are necessary to restore delivery to Joliet of the Water required to be furnished pursuant to this Agreement.

Notices of planned maintenance that Chicago is required to provide under this Section 11.8 shall comply with the requirements of Subsection 11.8.B.

B. Content of Notices by Chicago. All notices required to be given by Chicago to Joliet regarding maintenance pursuant to this Section 11.8 shall include at least the following information:

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

C. Emergency, Failure or Malfunction in the Chicago Water System. If, from time to time and for any reason, including without limitation emergency, failure or malfunction in the Chicago Water System, Chicago is unable to furnish to Joliet the lesser of Contractual Maximum Day Demand or Guaranteed Maximum Capacity, Chicago shall notify Joliet thereof and use due diligence to operate the Chicago Water System during any such occurrence to provide Water to Joliet insofar as practicable and shall, as promptly as possible, take such actions, including without limitation making and expediting repairs or adjustments, as are necessary to restore delivery to Joliet of the Water required to be furnished pursuant to this Agreement. Chicago shall have the right to restrict the supply of Water to Joliet during such time in order to ensure an adequate Water supply to all Chicago Customers for public health and fire protection. Chicago shall provide an initial notice to Joliet as soon as practicable after discovery regarding Chicago's inability to furnish in full the quantities of Water to be furnished to Joliet and the scope and extent of the known limitations. Promptly after assessment of such inability, Chicago shall provide notice to Joliet containing at least the following information necessary to restore delivery to Joliet of the Water to be furnished pursuant to this Agreement:

- i. a description of the causes of Chicago's inability to furnish in full the quantities of Water be furnished to Joliet;
- ii. the anticipated impact on the supply of Water to Joliet;
- iii. the actions necessary to restore delivery to Joliet of the Water to be

furnished pursuant to this Agreement;

- iv. the quantity of Water that Chicago will be able to supply to Joliet during, and following completion of, the actions necessary to restore delivery to Joliet of the Water to furnished pursuant to this Agreement; and
- v. the anticipated commencement and completion dates for the actions described in the notice.

D. Joliet Planned Maintenance. Chicago understands that as part of the operation of the Joliet Water System, Joliet will perform planned maintenance on the Joliet Water System that may or will affect the ability of Joliet to accept delivery of Water from Chicago from time to time and will coordinate the delivery of Water to Joliet to take into account any needs for an increased or reduced rate of delivery of Water prior to, during and after such maintenance.

E. Content of Notices by Joliet. Joliet shall notify Chicago that it plans to perform planned maintenance not less than thirty (30) days prior to commencement of such work. All notices required to be given by Chicago to Joliet regarding maintenance pursuant to this Section 11.8 shall include at least the following information:

- i. a description of the maintenance and the reason why it is required;
- ii. The anticipated impact on Joliet Water System operations and receipt of Water by Joliet;
- iii. the anticipated duration of the maintenance;
- iv. the quantity of Water that Joliet will be able to receive from Chicago during, and following completion of, the maintenance; and
- v. the anticipated commencement and completion dates for the maintenance.

F. Emergency, Failure or Malfunction in the Joliet Water System. If, from time to time and for any reason, including without limitation emergency, failure or malfunction in the Joliet Water System, Joliet is unable to receive delivery in full of the quantities of Water to be furnished to the Joliet Customers, Joliet shall notify Chicago thereof. Joliet shall use due diligence to operate the Joliet Water System during any such occurrence to receive Water from Chicago at an increased or reduced rate of delivery of Water prior to, during and after such repairs and adjustments insofar as practicable. Joliet shall provide an initial notice to Chicago as soon as practicable after discovery regarding Joliet's inability to receive in full the quantities of Water to be furnished by Chicago and the scope and extent of the known limitations. Joliet shall, as promptly as possible, take such actions, including without limitation making and expediting repairs or adjustments, as are necessary to restore the ability of the Joliet Water System to receive delivery from Chicago of the Water required to be furnished pursuant to this Agreement. Promptly after assessment of such inability, Joliet shall provide notice to Chicago containing at least the following information necessary to restore Joliet's ability to receive delivery from Chicago of the Water to be furnished pursuant to this Agreement:

- i. a description of the causes of Joliet's inability to receive in full the quantities of Water to be delivered by Chicago;
- ii. the anticipated impact on Joliet Water System operations and supply of Water received by Joliet;

- iii. the actions necessary to restore Joliet's ability to receive delivery from Chicago of the Water to be furnished pursuant this Agreement and the anticipated duration of these actions;
- iv. the quantity of Water that Joliet will be able to receive from Chicago during, and following completion of, the actions necessary to restore Joliet's ability to receive delivery from Chicago of the Water to be furnished pursuant to this Agreement;
- v. any anticipated impact, if any, on the Chicago Water System including without limit the operations of the Southwest Pumping Station or access thereto; and
- vi. the anticipated commencement and completion dates for the actions described in the notice.

11.9. Emergency Water Supply; Interconnections.

A. Joliet's Limited Right to Purchase Water from Others. In case of the failure of Chicago to supply Water in the amounts specified in this Agreement, this Agreement shall not be construed to prohibit Joliet from serving the Joliet Customers from any source, including wells. During such period of time when Chicago is unable to supply Water to Joliet, Joliet may receive water pursuant to an agreement with other providers for Water service in any amount and from any source in order to supply the Joliet Customers, subject to applicable Laws and regulations; during any other period of time, Joliet shall not receive water pursuant to an agreement with other providers to obtain water.

B. Emergency Water Service to Others. Joliet shall be permitted to provide emergency Water service to others through an Emergency Interconnection when necessary and where possible, subject to applicable law:

- i. in amounts that, when added to the maximum quantity of Water to be provided to Joliet pursuant to Section 11.2, do not exceed Contractual Maximum Day Demand. Any other limitations on the quantity of Water will be subject to and governed by Section 11.8; and
- ii. in the case of a Permanent Emergency Interconnection, Joliet shall maintain a list of entities with which Joliet has an agreement to provide emergency Water service and provide a copy of the list to Chicago promptly after the list is updated; or
- iii. in the case of a proposed Temporary Emergency Interconnection, Joliet shall promptly notify Chicago of the proposed location, manner of connection and duration of the Temporary Emergency Interconnection.

ARTICLE 12. REPORTING

12.1. Report of Water Rate Schedule of Joliet Customers. During the Term and any Renewal Term of this Agreement, at the written request of the Commissioner (which shall not exceed once every calendar year), Joliet agrees to submit to the Commissioner a written copy of the prevailing water rate schedule as applicable to the Joliet Customers (but not including Emergency Purchasers). If the Commissioner desires additional information about the rates and

how they were established, the Commissioner may submit a written request to Joliet and Joliet will provide the available information as it relates to the tax-exempt status of the Joliet bonds.

12.2. Water Supply Contracts. Within sixty (60) days after the Effective Date, Joliet will provide Chicago with copies of water supply contracts with all of its Subsequent Purchasers. During the Term, Joliet shall provide to the Commissioner copies of all Water supply contracts and any amendments or addenda to each such contract, entered into between Joliet and its Subsequent Purchasers during the Term within thirty (30) days after the execution of such Water supply contracts, or amendments or addenda to said contracts. In addition, Joliet shall provide Chicago with copies of any agreements, and amendments to agreements relating to the management of any regional water commissions.

12.3. Report of Water Received and Furnished. Beginning with the month during which the first Partial Delivery occurs, Joliet shall submit to the Commissioner by the tenth (10th) day of each month, a report showing the daily amount of Water received the previous month from Chicago and the amount furnished to Joliet and each of Joliet's direct wholesale customers.

12.4. Reports of Joliet Total Storage Capacity. Upon request of the Commissioner, Joliet shall submit to the Commissioner a report of Joliet's total storage capacity and the storage capacity of any Subsequent Purchasers' water systems describing the type of water storage facilities included in calculating the required storage capacity under Article 13. Joliet shall provide this information no later than thirty (30) days after receipt of the Commissioner's request.

ARTICLE 13. STORAGE CAPACITY

13.1. Sufficient Storage Capacity.

A. Storage Capacity Required. Joliet shall ensure that sufficient Water storage capacity is provided in its entire system, including the Joliet Water System and Subsequent Purchasers' systems, to store an amount not less than twice the aggregate Allocation Amount, as adjusted and amended from time to time, except as otherwise provided in Subsection 13.1.B. All suction wells, reservoirs and storage tanks provided by the distribution system portion of the Joliet Water System and any Subsequent Purchasers' water distribution systems (but not including transmission system storage) shall be considered in meeting this storage requirement.

B. Initial Storage Construction. Chicago and Joliet recognize that Joliet and the Subsequent Purchasers will construct the storage facilities based on availability of Contractors and materials and that it may not be feasible to provide storage in an amount not less than twice the aggregate Allocation Amount by the first day of Partial Delivery of Water by Chicago. Joliet agrees, and will require its Subsequent Purchasers to agree, to provide the storage described in Subsection 13.1.A not later than December 31, 2040. Joliet acknowledges, and shall cause its Subsequent Purchasers to acknowledge, that in the event of a curtailment under Section 11.8 that lasts longer than the available Water storage during this initial construction of water storage, Joliet and its Subsequent Purchasers shall be responsible to obtain water from existing storage as well as from an alternative water source other than Chicago. Joliet agrees to maintain its and cause the Subsequent Purchasers to maintain their water storage capacity in an amount not less than the amount it has in place as of the Effective Date, as shown on Exhibit G.

13.2. Alternatives to Storage. In addition to the storage capacity requirements in this Section, Joliet understands that Joliet and the Subsequent Purchasers should have access to alternate sources of water in the event of extended maintenance or in the event of an emergency whereby the Water supply from Chicago is restricted for a period in excess of two (2) days.

ARTICLE 14. QUALITY OF WATER

14.1. Quality of Water Furnished.

A. Generally. Chicago shall supply Joliet with Water of a quality commensurate with that furnished to its consumers within the Chicago corporate boundaries, the Water quality being consistent with the Regulatory Requirements. Except as otherwise provided in Subsections 14.1.B and 14.1.C, Chicago shall not be responsible for the quality of Water downstream of the Point of Demarcation.

B. Taste and Odor. As needed, Chicago will take action including, but not limited to, appropriate treatment based on then-current practices to remove unpleasant taste and odors in the Water, so as to ensure that the Water quality meets the secondary maximum contaminant level (“MCL”) for taste and odor as established by the United States Environmental Protection Agency National Secondary Drinking Water Regulations. Chicago shall not be responsible for taste and odor beyond secondary MCL levels. As of the Effective Date, the current best practice for the removal of taste and odors is the use of powdered activated carbon. Chicago shall not be responsible for unpleasant tastes and odors beyond Regulatory Requirements downstream of the Point of Demarcation.

C. Impact of Water Treatment by Chicago. If treatment processes used by Chicago cause or, if the Parties agree, create the potential to cause, the Water in the Joliet Water System and the water systems of Joliet’s Subsequent Purchasers to fail to meet Regulatory Requirements related to non-nitrogen-based Slow-Reaction Compounds or inadequate chlorine levels, and Joliet or Joliet’s Subsequent Purchasers:

- i. have not provided additional treatment (other than addition of free chlorine, ammonia, or both for disinfection purposes and/or phosphate for corrosion control);
- ii. have not mixed the Water with water from another source that does not originate from Chicago, and
- iii. have employed best practices regarding tank turnover and mixing for storage tank operations in accordance with the AWWA manual M68 entitled “Water Quality in Distribution Systems” (then-current version) in the Joliet Water System and the water systems of Joliet’s Subsequent Purchasers,

then Chicago will modify its Water treatment processes as necessary to correct said failure or to address the potential to cause said failure. If ammonia is added by Joliet or Joliet’s Subsequent Purchasers, Chicago will not be responsible for the formation of nitrogen-based disinfection by-products. For the purposes of this Subsection 14.1.C, Joliet will submit to Chicago such information as is available and reasonably requested by Chicago and necessary to assess the conditions, or the potential conditions, described in this Subsection 14.1.C.

14.2. Maintenance of Water Quality Downstream of Point of Demarcation. Joliet shall be responsible for maintaining the Water quality at all points downstream of the Point of Demarcation in a manner consistent with the applicable standards of any federal, State or local agency with jurisdiction over public water supplies, except as otherwise provided in Subsections 14.1.B and 14.1.C.

14.3. Monitoring. Joliet and Chicago each intend to install water quality monitors

downstream and upstream, respectively, of the Point of Demarcation. The Parties agree to share available Water quality monitoring data with each other upon request of the other Party. If each Party collects Water quality data based on samples or online instrumentation, and the Parties' respective data differs either materially or on a consistent basis, the Parties agree to discuss the data to identify the source of the difference. Such discussions may include the Parties providing to each other the methods and records of testing and maintenance performed on the devices or other instrumentation from which the Water quality data are taken, and will perform other testing as needed, in order to determine the source of differences in the data. The Parties agree to adjust testing methods and/or perform such maintenance or other work, in each case, as is necessary on their respective devices and other instrumentation to correct the source of the differences in the data.

14.4. Air Gap. Except as otherwise agreed by the Parties, there shall be one or more air gaps at the Durkin Site or at the Southwest Pumping Station Site to separate the Chicago Water System from the Joliet Water System. On and after the date of first Partial Delivery, Joliet must ensure that all Water delivered to Joliet at the Point of Demarcation passes through an air gap downstream of the Point of Demarcation and upstream of the Transmission Main-Chicago. All air gaps will be designed, constructed and maintained by Joliet to provide a distance of at least one and one-half (1.5) feet between the outlet of the pipe and the maximum Water level in the associated well, and to otherwise conform to the standards of Chicago, as well as all applicable Laws.

14.5. Emergency Mutual Notice—Water Quality.

A. Emergency Events. The Parties shall notify each other in the event of:

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

B. Notices Required. If a Party identifies an emergency event described in Subsection 14.5.A, that Party shall provide an initial notice to the other Party as soon as practicable after discovery of any of the Water quality conditions described in Subsection 14.5.A and, to the extent known, the scope and extent of the identified conditions. Promptly after assessment of the Water quality conditions, the Party providing the initial notice shall provide a second notice to the other Party containing at least the following information regarding restoration of Water quality and describing the actions necessary to address the conditions identified:

- i. a description of the causes of the Water quality conditions identified;
- ii. the anticipated impact on either of the following, as applicable: (a) the ability of Chicago to provide Water to Joliet that meets the requirements of this Agreement or (b) the Chicago Water System due to an emergency or other condition of the Joliet Water System;

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

14.6. Mutual Water Quality Assistance. Chicago and Joliet each may request assistance from the other Party in connection with matters pertaining to or affecting Water quality. As part of providing assistance to the other Party, a Party may, with consent from and prior notice to, the other Party:

- A. make inspections of portions of the other Party's Water System, including the New Water Supply Infrastructure, which may affect the quality of the Water supplied to Joliet; and
- B. perform relevant tests on a Water sample drawn from the other Party's Water System.

14.7. Water Source Transfer Plan.

A. Chicago agrees to provide assistance to Joliet in connection with the completion of its Water Source Transfer Plan, including at the time of (i) testing to assist in determining the manner of transition from well water to Water (i.e., the development of a Water Source Transfer Plan), and (ii) water source transfer from well water as Joliet's water source to Water as Joliet's water source, at the time of each Partial Delivery and Full Delivery.

B. Such assistance may include the following and such other assistance as otherwise may be reasonably required: providing relevant water quality information, providing a point of connection to obtain either finished Water prior to corrosion control addition or finished Water after corrosion control addition (depending on the type of corrosion control being used by Chicago), the ability to use Chicago's existing Water testing equipment, as available, providing space for testing including at the Eugene Sawyer Water Purification Plant or the Southwest Pumping Station or other location, providing Water for testing and other items required for Joliet to complete its Water Source Transfer Plan. If testing requires use of pipe loops, Joliet will construct and use its own Water testing loop, including any testing-related equipment and capital improvements. Joliet shall pay the costs relating to Water sampling and testing.

ARTICLE 15. OWNERSHIP, MAINTENANCE AND OPERATION OF THE NEW WATER SUPPLY INFRASTRUCTURE

15.1. Ownership and Responsibility for Operation and Maintenance of New Water Supply Infrastructure. Each Party will own, and shall be responsible for the operation and Maintenance of, the New Water Supply Infrastructure as designated for such Party below:

A. Chicago will be the owner of the Chicago New Water Supply Infrastructure and shall be responsible for the operation and Maintenance of the Chicago New Water Supply Infrastructure as necessary to deliver Water to Joliet at the Point of Demarcation. Chicago ownership of the Tunnel Extension, the Low Service Pump Station and the Chicago Service Valve will be established through the process described in Section 8.14.

B. Joliet will be the owner of the Joliet New Water Supply Infrastructure and shall be responsible for the operation and Maintenance of the Joliet New Water Supply Infrastructure as necessary for Joliet to receive Water from Chicago for conveyance to the Joliet Customers.

C. Joliet will be the owner, and shall be responsible for the operation and Maintenance, of the New Water Supply Infrastructure located outside the Chicago corporate boundaries.

D. Each Party shall perform the requirements of this Section 15.1 that are designated as that Party's responsibility at its cost and expense.

15.2. Operation and Maintenance of Project Elements.

A. Operations. Operation of the Project Elements by the Party owning the Project Element shall be consistent with any operational requirements in this Agreement, as well as all applicable local, State and Federal laws and regulations, including but not limited to the IEPA regulations in Title 35 of the Illinois Administrative Code, or any applicable successor regulations.

B. Coordination. Each Party shall operate and maintain its Project Elements within Chicago corporate boundaries in a coordinated manner with the other Party's operation and maintenance of its Project Elements.

C. Protection of Water Systems. Each Party shall operate its respective Water System in such a manner as at no time to place the other Party, or the other Party's Waterworks System, in jeopardy of failing to meet the regulations of any federal, State, or local agency or governmental authority having jurisdiction over the operation of the Party's Water System from time to time. Each Party shall operate its respective Water System in such a manner as at no time to cause damage to the other Party's Waterworks System.

D. Maintenance. Joliet shall maintain the Joliet New Water Supply Infrastructure and Chicago shall maintain the Chicago New Water Supply Infrastructure in good working condition and repair, in a manner consistent with the best practices for municipal water systems. Maintenance shall be performed in a manner that will not permanently reduce or limit the operations, functionality of the Project Element as initially designed and constructed, unless modified through the implementation of mutually agreed Capital Improvements.

15.3. Joliet's Continued Rights. During the Term of this Agreement, the Parties understand and agree that:

A. Joliet shall be entitled to continue to receive Water from the Tunnel Extension, Low Service Pump Station and Chicago Service Valve; and

B. no Chicago Customer other than Joliet will be provided Water service with the use of the Tunnel Extension, Low Service Pump Station and Chicago Service Valve without the prior written consent of Joliet.

15.4. Site Operations at Durkin Site and Southwest Pumping Station Site.

A. Use of and Access to the Southwest Pumping Station Site. Chicago and Joliet acknowledge and agree that they will be sharing use of areas within the Southwest Pumping Station Site and agree to enter into an agreement for the shared use of the site in a manner to address matters pertaining to the operation and use of the Southwest Pumping Station Site, including but not limited to the matters included in this Section 15.4.

B. Security. Chicago shall be responsible for developing and implementing the protocol and procedures for security measures at the Southwest Pumping Station Site, including but not limited to access, surveillance, and control of entry through the use of items such as gates, cameras, door access controls and other items that may be appropriate from time to time. Joliet will cooperate with Chicago regarding participation in all reasonable security measures, procedures and protocols for the Southwest Pumping Station Site and the Project Elements primarily located on that site. Chicago agrees to provide to Joliet access to the necessary information to enable Joliet to maintain security of its Project Elements. Joliet and Chicago shall coordinate on the protocols and procedures for the security at Durkin site.

C. Other Site Improvements. Chicago will be the owner of improvements on the Southwest Pumping Station Site located outside the Project Elements, such as fencing, gates, pavement, security lighting, security and access control equipment, trees and plantings and other items. Chicago shall be responsible for providing maintenance, repair and replacement of these items as well as site maintenance on the Southwest Pumping Station Site, including but not limited to lawn and landscape maintenance, snow removal, pavement repairs, and other activities.

D. Mutual Assistance. Chicago and Joliet agree to cooperate with each other and be available to provide mutual aid in connection with emergency events occurring in each other's Project Elements.

15.5. Annual Review. The Parties shall meet on an annual basis to present and review their respective plans for Capital Improvements to the New Water Supply Infrastructure for the next five years as well as Maintenance planned or proposed by either Party on the Southwest Pumping Station Site or the Durkin Site and any other activities regarding the Chicago Water System or Joliet Water System that would have an actual or potential impact on the delivery of Water by Chicago to Joliet as provided in Section 11.8. The purpose of the meeting will be to review potential impacts of each Party's proposed Capital Improvements and Maintenance on the functionality, operation and costs of the other Party's New Water Supply Infrastructure, actual or potential impacts on delivery of Water as provided in Section 11.8 and potential impacts of planned or proposed activities that may require coordination of the use of the Southwest Pumping Station Site. A meeting under this Section 15.5 may also include discussion of future water demand analysis as described in Section 11.7.

15.6. Modification of Project Elements. Chicago anticipates that the Chicago New Water Supply Infrastructure and components thereof, shall require Maintenance and Capital Improvements, and Joliet anticipates that the Joliet New Water Supply Infrastructure and components thereof, shall require Maintenance and Capital Improvements.

A. Costs. The cost of Capital Improvements to the Joliet New Water Supply Infrastructure shall be the responsibility of Joliet and the cost of Capital Improvements to the Chicago New Water Supply Infrastructure shall be the responsibility of Chicago.

B. Change in Design Intent. If the proposed Maintenance or Capital Improvement permanently reduces or limits the operations or functionality of the Project Element as initially designed and constructed, then the Maintenance or Capital Improvement will be treated as a change in the Design Intent for the Project Element. All changes to the Design Intent of the Project Elements shall be mutually agreed to by both Parties.

C. Notice and Review.

i. Notice for Maintenance and Capital Improvements. For any proposed Maintenance or Capital Improvement, the Parties agree to notify each other of any proposed Maintenance or Capital Improvement on the Southwest Pumping Station Site or the Durkin Site. The notice shall include sufficient information about the proposed Maintenance or Capital Improvements to allow the receiving Party to determine whether the proposed Maintenance or Capital Improvement may have the potential to affect one or more of the following:

- a. the access to the Southwest Pumping Station Site or the Project Elements located on the Southwest Pumping Station Site by the receiving Party.
- b. the Design Intent of the proposing Party's Project Elements.

Notice shall be given sufficiently in advance of the proposed Maintenance or Capital Improvement to allow the receiving Party to review the proposed Maintenance or Capital Improvement and notify the Party providing the notice that the receiving Party believes the proposed Maintenance or Capital Improvement will or will not affect its access to or use of, or the operation and functionality of, the Project Elements. If a Capital Improvement requires an IEPA permit, then notice shall be provided not less than ninety (90) days prior to submitting an application to the IEPA for a permit for such work and shall include in the notice a brief statement of the rationale for the Capital Improvement proposed, and whether the proposing Party considers the Capital Improvement to be a change in the Design Intent. If an activity regarding the Chicago Water System or Joliet Water System would have an actual or potential impact on the delivery of Water by Chicago to Joliet, notice shall also be given as required by Section 11.8.

ii. Responses and Review Process. This Subsection 15.6.C(ii) shall apply to any proposed Maintenance or Capital Improvement for which notice is required pursuant to Subsection 15.6.C(i) or Subsection 15.6.C(iii).

a. If the Party receiving the notice believes the proposed Maintenance or Capital Improvement will affect its access or require site coordination, the Parties will meet and confer to coordinate their activities to make it possible to perform the proposed Maintenance or Capital Improvement with no or minimal impact on the other Party.

b. If the Party receiving the notice concludes that the proposed work does not change the Design Intent for the Project Element, then no further response is required from the receiving Party.

c. If the Party receiving the notice considers the work described in the notice to be a change in the Design Intent for the Project Element, then the Party receiving the notice shall request that the proposed Party submit documents to allow for a more detailed review by the receiving Party. If, after review of the more detailed information, the Party receiving the notice still believes the work is a change in the Design Intent, then the Parties agree to meet and confer to determine whether the change in Design Intent can be mutually agreed to by the Parties. If the change in Design Intent is not mutually agreed, then the proposing Party shall modify the proposed work so that it does not change the Design Intent for the Project Element. The Parties agree to meet and confer to reach agreement on modifications to the proposed work to address and resolve the receiving Party's concerns.

iii. Changes. If, subsequent to resolution of comments and issues pursuant to Subsection 15.6.C(ii), it becomes necessary to make a Change to the Construction Contract for the proposed Maintenance or Capital Improvement, then the Party proposing the Change must notify the other Party, and the Parties will follow the process in Subsection 15.6.C(ii). If the Maintenance or Capital Improvement is being constructed at the time the Change is proposed, the Parties shall follow the process on an expedited basis.

iv. Additional Notices. Any notices required in this Subsection 15.6.C shall be in addition to other notices regarding the Project Elements that are required by this Agreement.

D. Permits in Chicago. Chicago shall cooperate with Joliet in obtaining all necessary permits for performing the Capital Improvements and Maintenance to the Joliet Project Elements located within Chicago corporate boundaries.

E. Expansion of Project Element. If a Party proposes to undertake a Capital Improvement that is an expansion of one or more of its Project Elements within Chicago corporate boundaries, then the Parties will jointly develop and abide by procedures similar to the procedures in Sections 8.5, 8.6, 8.8, 8.10 and 8.11 for the design and design review, construction and construction review, inspections and Changes will be handled for the expansion. The Parties shall jointly develop the procedures prior to the commencement of the design of the expansion.

15.7 Notice of Qualifying Event. If Chicago believes that a Qualifying Event has occurred, Chicago shall notify Joliet within forty-five (45) days after learning of the Qualifying Event and include in the notice a description of what Chicago believes is the Qualifying Event, the time required to correct or repair any issues caused by the Qualifying Event, the estimated cost associated with such correction or repair, and the impact on the Water rate charged to Joliet under Article 17.

ARTICLE 16. MEASUREMENT OF WATER

16.1. Measurement of Water. Chicago shall measure the quantity of Water furnished to Joliet under this Agreement on a continuous basis at the Point of Measurement. The unit of measurement shall be the United States standard liquid measure of gallons and all Measuring Devices shall be set to measure in gallons, unless otherwise agreed by the Parties.

16.2. Measuring Devices. Joliet shall furnish and install Measuring Devices acceptable to Chicago and Joliet and house such Measuring Devices in the Meter Vault for the purpose of measuring and recording the quantity of Water furnished pursuant to this Agreement. Such

Measuring Devices shall have a margin of error identified by the manufacturer as not to exceed plus or minus (+/-) 1.5% and shall be suitable for the intended use and able to handle measurement of the quantity of Water to be furnished pursuant to this Agreement and shall be of a type that can be feasibly installed and accurately measure Water quantity at the Southwest Pumping Station Site. Joliet shall operate, maintain, repair, and, when necessary, replace the Measuring Devices at its cost.

16.3. Readings.

A. General. The Measuring Devices will include the ability to perform remote electronic monitoring of the quantity of Water being furnished on a continuous basis and both Chicago and Joliet will have access to the output and results of such monitoring. Monthly readings of quantity for the purpose of billing Joliet for Water delivered shall be taken on a consistent basis and on a date in each month that will allow accurate calculation of volume of Water furnished by Chicago to Joliet, consistent with Article 17.

B. Measuring Device Processes for Alternate Meter Readings Method. If obtaining measurements of Water quantity from Measuring Devices is not possible, or the Measuring Devices are determined by Joliet or Chicago to be registering incorrectly outside of the margin of error identified by the manufacturer so that the quantity of Water delivered to Joliet cannot be ascertained or computed from the readings of such Measuring Devices, the amount of Water furnished by Chicago to Joliet for the purpose of billing Joliet shall be the quantities registered by the water meters in the Low Service Pump Station, Joliet's check meter (if any), and the High Service Pump Station as follows in order of priority:

First, the water meters in the Low Service Pump Station, if reading within the margin of error identified by the manufacturer shall determine the amount of Water furnished;

Second, if the Low Service Pump Station water meters are not reading within the margin of error identified by the manufacturer, then if Joliet has a check meter and it is reading within the margin of error identified by the manufacturer, the amount of Water furnished shall be the amount shown on the check meter;

Third, if Joliet does not have a check meter or the Joliet check meter is not reading within the margin of error identified by the manufacturer, and the High Service Pump Station is reading within the margin of error identified by the manufacturer, then the quantity of Water furnished shall be the reading provided by the High Service Pump Station meter; or

If none of the water meters is within the margin of error identified by the manufacturer for each water meter, then the quantity of water shall be determined pursuant to Subsection 16.3.C.

C. Estimated Readings-Averaging Method. If the quantity of Water furnished cannot be determined based on the procedure described in Subsections 16.3.A or 16.3.B, Chicago shall prepare an estimated quantity to be used which shall be based upon the average of twelve (12) preceding readings of the Measuring Devices, exclusive of incorrect readings. When fewer than twelve (12) correct readings are available, a fewer number of readings, including some readings that may be available after the Measuring Device has been corrected, may be used. All records and quantity information used by Chicago in preparing the estimated quantity shall be provided by Chicago to Joliet for review not later than with the delivery of the invoice for the period for which estimates were made.

16.4. Calibration.

A. During a period of twelve (12) months after the date of start-up and commissioning of the Measuring Devices, the Measuring Devices will be calibrated on a monthly basis during the first two (2) months, for tests, and if there are no calibration issues, after the first two (2) months, the Measuring Devices will be calibrated during the next four (4) months on a bi-monthly basis, then during the next six (6) months, on a quarterly basis, and thereafter twice a year, but only if during each period no calibration issues have arisen. If a calibration issue arises, calibration frequency will be temporarily adjusted to monthly for four (4) months before returning to calibration twice a year.

B. The Measuring Devices will be calibrated as provided in Subsection 16.4.A or upon any installation, repair, or replacement of any Measuring Device before such Measuring Device is placed in service, at Joliet's cost, by a company qualified in the calibration of meters of comparable type and size to the Measuring Devices which company has been approved by Chicago. Joliet shall notify Chicago of the planned date and time of the calibration and the company proposed to perform the calibration. Such notice by Joliet shall be not less than ten (10) Business Days prior to the planned date and time. Joliet or the company will provide Chicago with information regarding the company's calibration procedures and the equipment used for calibration which Chicago will have the right to inspect. If Chicago determines that the company proposed by Joliet is not qualified to perform the calibration, Chicago shall notify Joliet not less than two (2) Business Days prior to the date of calibration in Joliet's notice of the reasons why Chicago believes the company is not qualified, and the calibration will be rescheduled and performed by a company mutually acceptable to the Parties. Chicago may have a representative present for the calibration. The results of the calibration shall be reported to both Parties.

16.5. Access to Measuring Devices. Chicago representatives may access the Measuring Devices for the purposes of examination, and inspection of the Measuring Devices according to the following procedures subject to instances of an emergency in which case the provisions under Section 15.4 shall apply:

A. Chicago shall notify Joliet, of a need to access the Measuring Devices not less than two (2) Business Days prior to the date and time for which access is requested. In the event that Chicago is unable to access the Measuring Devices at that date and time, Chicago may provide follow-up notice to Joliet likewise as soon as practicable to arrange an alternative date and time;

B. Chicago representatives must be accompanied by a Joliet representative unless an authorized Joliet representative waives the right to accompany Chicago representatives for the inspection in the notice;

C. access to the Measuring Devices will be during business hours except in cases of emergency; and

D. the examination and inspection may be performed not more than once per month unless a need for more frequent access is identified by Chicago in its notice.

16.6. Joliet Check Meter. Joliet may, at its own expense, install, operate, maintain, repair and replace a check meter to check the readings of the Measuring Devices. Such check meter shall be for Joliet's information, but its reading may serve as the best data and information available for the purposes of Section 16.3 for determining the quantity of Water delivered to Joliet by Chicago. The procedures in Section 16.5 for access to the Meter Vault shall apply to access by Chicago to Joliet's check meter for examination and inspection. Calibration of Joliet's check meter will be subject to the same requirements applicable to calibration of Measuring Devices in Section 16.4.

16.7. Repair, Replacement and Inspections of Measuring Device and Joliet Check Meter.

- A. Joliet shall notify Chicago of any:
 - i. repair of a Measuring Device or check meter that would interrupt the measurement of Water by that Measuring Device or check meter;
 - ii. replacement-in-kind of a Measuring Device or check meter; or
 - iii. replacement of a Measuring Device that is not a replacement-in-kind of a Measuring Device or check meter.

For any replacement described in Subsections 16.7.A, Joliet shall provide drawings, plans and specifications, including the layout within the Meter Vault, to the Commissioner for review and approval prior to an application being made for an installation permit and prior to the start of any replacement work.

B. In the event that either Party becomes aware of an issue with any of the Measuring Devices or check meter, that Party shall notify the other Party and the Parties will discuss the issue and jointly determine the next steps that should be taken to resolve the issue.

ARTICLE 17. WATER RATES

17.1. Establishment of Water Rate. The Parties agree that the rate charged by Chicago to Joliet for Water delivered during the Term will be established by different methods in each rate period:

A. The rate for Water delivered during the Initial Rate Period will be established as provided in Section 17.2;

B. The rate for Water delivered during the Second Rate Period will be established as provided in Section 17.3; and

C. The rate for Water delivered during the Regular Rate Period will be established as provided in Section 17.4.

17.2. Water Rate During the Initial Rate Period. During the Initial Rate Period:

A. For Water delivered as Initial Water for Testing through the Point of Demarcation or not through the Point of Demarcation other than as described in Subsections 17.2.C and 17.2.D of this Section 17.2, the Water Rate shall be equal to the rate charged by Chicago to the Chicago Retail Customers. If such Water is delivered before the metering devices in the Meter Vault are completed and calibrated, Chicago shall provide a good faith estimate of the quantity of Water under this Section within fifteen (15) days after the end of each month in which such Water is delivered.

B. From and after the Targeted Water Delivery Date

i. If Chicago has completed construction of the Tunnel Connection in a timeframe as to not delay Joliet's completion of the Low Service Pump Station, Meter Vault, Suction Well, and High Service Pump Station and also that Joliet has not delayed

Chicago's completion of the Tunnel Connection, and Chicago has outstanding debt for the financing of the construction of one or more of the Tunnel Connection, Tunnel Extension, Low Service Pump Station or Chicago Service Valve, and Chicago is required to make payments for the cost of debt service on such outstanding debt, Joliet shall make payments to Chicago to cover any such debt service as such debt service is due. The costs paid by Joliet shall include principal and interest payments on a line of credit or other financing arrangements as well as costs of issuance, professional fees, trustee fees and other administrative fees. These payments will cease as soon as Chicago begins to charge for Water delivered to Joliet in the Second Rate Period as described in Section 17.3. The total amount of any principal payments by Joliet to Chicago under this Subsection 17.2.B(i) prior to commencement of Partial Delivery shall be deducted from the value of the asset which will be otherwise included in the rate base after the commencement of Partial Delivery; and

ii. if the Tunnel Connection has been completed and is ready to deliver Water to Joliet through the Tunnel Connection, and Joliet is not taking delivery of Water, then Joliet agrees to reimburse Chicago for any costs incurred, in connection with the maintenance and operation of the Tunnel Connection on a monthly basis.

iii. If Joliet transfers to Chicago, and Chicago takes ownership of Tunnel Extension, the Low Service Pump Station and the Chicago Service Valve, prior to the Second Rate Period, and Joliet is not taking delivery of Water through the Chicago New Water Supply Infrastructure, then Joliet agrees to reimburse Chicago for the costs it incurs, if any, in connection with maintenance and operation of the Tunnel Extension, the Low Service Pump Station and the Chicago Service Valve, on a monthly basis.

C. For Water provided by Chicago to Joliet via any Chicago Customer and the Water provided by Chicago is metered on that Customer's meter, no payment from Joliet to Chicago shall be required. The Parties understand that the Chicago Customer will be charged for such Water by Chicago and that the Chicago Customer may charge Joliet for the Water delivered by the Chicago Customer to Joliet, which charges shall not be subject to approval or review by Chicago.

D. For Water provided by Chicago to Joliet that is not delivered through the Point of Demarcation (such as Water used during construction prior to substantial completion of the Chicago New Water Supply Infrastructure) and is not delivered via another Chicago Customer, such as Hydrant Water, Joliet shall pay for Water as provided in Section 17.10.

17.3 Water Rate During the Second Rate Period. During the Second Rate Period, the Charged Water Rate shall be calculated as described in this Section 17.3 and Subsection 17.4.A, and shall be subject to an Annual Reconciliation determined as described in Subsection 17.4.B, with the following exceptions:

A. A fraction ("Second Rate Period Fraction") of the capacity costs and customer costs will be allocable to Joliet. The Second Rate Period Fraction will be equal to the number of calendar days of the Second Rate Period during which Joliet takes delivery of Water from Chicago divided by three hundred sixty-five (365) days. The Second Rate Period Fraction will be estimated based on the projected number of calendar days of the Second Rate Period in determining the Projected AWWA Rate. The Second Rate Period Fraction will be calculated based on the actual number of calendar days of the Second Rate Period in determining the Annual Reconciliation Amount.

B. Commodity costs will be allocated based on Joliet's share of the volumetric use of all facilities used and useful to provide Water service to Joliet, as listed in Subsection 17.5.A(i).

C. The Inflation Index Water Rate and the Fixed Limit Water Rate shall not be used in determining the Charged Water Rate and the Annual Reconciliation Amount while in the Second Rate Period.

D. The Charged Water Rate and the Annual Reconciliation Amount, as calculated in Subsections 17.4.A and 17.4.B, will be adjusted for purposes of the Second Rate Period as follows:

i. the Charged Water Rate will be the Projected AWWA Rate, with certain costs allocated in accordance with Subsections 17.3.A and 17.3.B.

ii. the Capped Audited AWWA Rate will be the Audited AWWA Rate, with certain costs allocated in accordance with Subsections 17.3.A and 17.3.B.

E. Joliet shall provide estimates of the projected Units of Service and Second Rate Period Fraction to Chicago not later than June 30, 2029. If no estimate is provided to Chicago, Chicago may make the estimates on Joliet's behalf. The Cost of Service Study used to establish the Charged Water Rate for the 2030 Rate Year is expected to be performed using audited information from fiscal year 2028 and is expected to be performed within ninety (90) days of the date that the financial statements for the Chicago Water Fund are published, expected to occur on or about June 30, 2029 such that Chicago provides notification of the rate not less than ninety (90) days prior to the beginning of the following Rate Year. If Joliet determines that the Second Rate Period will begin more than one year after the Targeted Water Delivery Date, then Joliet will provide estimates of the projected Units of Service and Second Rate Period Fraction by June 30th of the year prior to which the Second Rate Period will begin, and Chicago expects to provide notification of the rate for the first year of the Second Rate Period within ninety (90) days of the publication of the financial statements for the Chicago Water Fund published in the year prior to the first year of the Second Rate Period.

F. Chicago and Joliet agree that the Water Rate to be charged by Chicago to Joliet during the first year of the Second Rate Period shall not exceed the Water Rate calculated pursuant to the audited 2019 Cost of Service study adjusted to the year of the first year of the Second Rate Period in accordance with the Water rate calculation methodology as described in Subsections 17.4.A(ii) and 17.4.A(iii), but which Water Rate increase limitations will only apply to growth in costs attributable to the following: (i) administration (including pension expenses that can be attributed pursuant hereto) and (ii) capital expenditures, commodity costs and personnel expenses (including pension expenses that can be attributed pursuant hereto) related to 68th Street/Dunne Crib, Eugene Sawyer Water Purification Plant, and South Tunnel Zone. Increases attributable to the Units of Service and differences between estimated and actual costs associated with the construction of the Chicago New Water Supply Infrastructure will not be subject to such limitations.

17.4. Water Rate During the Regular Rate Period. For the Regular Rate Period, each year at the time specified in Subsection 17.5.C, the Charged Water Rate to Joliet in a given year shall be calculated as described in Subsection 17.4.A and shall be subject to an Annual Reconciliation determined as described in Subsection 17.4.B.

A. Determination of Water Rate. The Charged Water Rate will be equal to the lowest of the amounts determined by the following three Water rate calculation methods:

i. The Projected AWWA Rate A rate for the next year based on the most recently completed Cost of Service Study as well as projected costs and expenses to provide Water to Joliet and the projected Units of Service required for the next year.

ii. Inflation Index Water Rate. A rate to be determined as follows, to account for inflation using the CPI-W:

The annual Inflation Index Water Rate will be calculated by applying the 10-year change in the CPI-W to the Capped Audited AWWA Rate from 10 years prior. In each year of the Regular Rate Period, Chicago will calculate the IWR by taking the product of:

a. The Capped Audited AWWA Rate from ten years prior, or, if the first year of the Regular Rate Period occurred fewer than eleven years prior, the Audited AWWA Rate from the first year of the Regular Rate Period; and

b. The total change in CPI-W for the most recent available calendar year compared to CPI-W from ten years prior, or, if the first year of the Regular Rate Period occurred less than eleven years prior, the CPI-W from the number of years prior equivalent to the number of years of the Regular Rate Period that have previously occurred minus one.

$$IWR_i = CAAR_{i-n} \times \left(1 + \frac{CPI-W_i - CPI-W_{i-n}}{CPI-W_{i-n}} \right)$$

where,

i = the Rate Year of water service for which the IWR is being calculated.

$n = i$ less the number of years since the year prior to the Regular Rate Period, but no greater than 10 ($n \leq 10$).

IWR = the Inflation Index Water Rate.

CAAR = the Capped Audited AWWA Rate.

In the first year of the Regular Rate Period, the Capped Audited AWWA Rate from the year prior will equal the Audited AWWA Rate from the year prior to the Regular Rate Period.

iii. Fixed Limit Water Rate. The Audited AWWA Rate (“AAR”) calculated for the year prior to the year for which a rate is being calculated and multiplied by one hundred and five percent (105%) per Rate Year.

To the extent that the necessary audited or inflation information is not available to determine the Charged Water Rate, then the Parties will meet and confer to determine the most recent available information to be used to calculate the Water rate.

B. Annual Reconciliation. Each year at the time specified in Subsection 17.5.B, the Annual Reconciliation for the prior year will be calculated as provided below.

i. The difference between the Capped Audited AWWA Rate for a given year and the Charged Water Rate for that year multiplied by the total Water delivered to Joliet by Chicago in that year is the “Annual Reconciliation Amount” and will be charged to the appropriate Party in the following year.

$$\text{Annual Reconciliation Amount}_i \\ = (\text{CAAR}_i - \text{Charged Water Rate}_i) \times \text{Joliet Water Consumption (kgal)}_i$$

Where,

i = the Rate Year of water service for which the Annual Reconciliation Amount is being calculated.

CAAR = the Capped Audited AWWA Rate.

If the Capped Audited AWWA Rate for a given year is greater than the Charged Water Rate, then Joliet will pay the Annual Reconciliation Amount to Chicago in the following year. If the Capped Audited AWWA Rate for a given year is less than the Charged Water Rate for that year, then Chicago will pay the Annual Reconciliation Amount to Joliet in the following year. If the difference between the Capped Audited AWWA Rate and the Charged Water Rate for a given year is zero (\$0.00), then the Annual Reconciliation Amount is also zero (\$0.00) and neither Party will make a payment.

ii. The Capped Audited AWWA Rate shall be calculated as follows:

a. If, during the prior Rate Year, a Qualifying Event and Demand Event did not occur, the Capped Audited AWWA Rate for that Rate Year shall be the lowest of the amounts determined by the adjustment options below:

I. The Audited AWWA Rate; and

II. Inflation Index Water Rate as described in Subsection 17.4.A(ii); and

III. Fixed Limit Water Rate as described in Subsection 17.4.A(iii).

b. If, during the prior Rate Year, a Qualifying Event did not occur, but a Demand Event did occur, the Capped Audited AWWA Rate for that Rate Year shall be the sum of:

I. The lowest of the amounts determined by the adjustment options below:

(1) An adjusted Audited AWWA Rate, calculated without the change in Units of Service that caused the Demand Event; and

(2) Inflation Index Water Rate as described in Subsection 17.4.A(ii); and

(3) Fixed Limit Water Rate as described in Subsection 17.4.A(iii);

Plus

II. The difference between:

(1) An adjusted Audited AWWA Rate, calculated without the change in Units of Service that caused the Demand Event; and

(2) The Audited AWWA Rate.

iii. If a Qualifying Event did occur during the prior year, then the Capped Audited AWWA Rate shall equal the sum of:

a. The lowest of the amounts determined by the adjustment options below:

I. The Audited AWWA Rate, calculated without the costs directly associated with the Qualifying Event; and

II. Inflation Index Water Rate as described in Subsection 17.4.A(ii); and

III. Fixed Limit Water Rate as described in Subsection 17.4.A(iii);

Plus

b. The difference between:

I. The Audited AWWA Rate; and

II. The Audited AWWA Rate, calculated without the costs directly associated with the Qualifying Event.

iv. To the extent that the necessary audited or inflation information is not available to calculate the Capped Audited AWWA Rate, then the most recent available information will be used, and the Parties will meet and confer to determine whether any additional information should be used to calculate the Capped Audited AWWA Rate. Upon receipt of the audited or inflation information needed to calculate the Capped Audited AWWA Rate, any differences in the two calculations will be included in the next Annual Reconciliation.

v. The Annual Reconciliation Amount calculated for year *i* will be calculated approximately ninety (90) days prior to the end of year *i* + 1 (such end of year being December 31) and would be paid (if it is nonzero) during year *i* + 2. For example, the Annual Reconciliation Amount for the year ending December 31, 2031, would be calculated during 2032 after the Audited Financials for the Chicago Water Fund for fiscal year 2031 are available. The Annual Reconciliation Amount for year 2031, having been calculated during 2032, would be payable during year 2033.

vi. The Annual Reconciliation Amount will be calculated in dollars and whole cents. The Annual Reconciliation Amount is payable in twelve equal payments paid concurrently with the monthly bill payments. If a payment is due from Chicago, then Chicago, at its option, may make payment by providing a credit to Joliet's bill, either in a lump sum on one of the monthly bills or divided into twelve equal credits applied to the monthly bills.

vii. The Annual Reconciliation for any year or partial year in the Second Rate Period will be calculated as described in Section 17.3.

viii. There will be no Annual Reconciliation during the Initial Rate Period.

ix. To the extent that both a Demand Event and Qualifying Event occur in one rate year, the calculations associated with both the Qualifying Event and the Demand Event will be considered. Section 15.7 requires Chicago to give notice to Joliet of a Qualifying Event.

x. For curtailment events caused by Joliet or flushing required for the water source transfer, Chicago agrees, if requested by Joliet, to assess a surcharge for Water utilized by Joliet for these events in lieu of a higher demand being incorporated into the actual Units of Service for the Rate Year. If Joliet requests to be charged such a surcharge, Chicago shall assess the surcharge, which will be the difference between the rate calculated pursuant to Section 17.3 for the period of the event and the Charged Water Rate applied to the volume of Water used during the period of that event. The Annual Reconciliation shall account for any changes to the surcharge based on the Capped Audited AWWA Rate.

Chicago and Joliet agree that the Water Rate to be charged by Chicago to Joliet during the first year of the Regular Rate Period shall not exceed the Water Rate calculated pursuant to the audited 2019 Cost of Service study adjusted to the year of the first year of the Regular Rate Period in accordance with the Water rate calculation methodology as described in Subsections 17.4.A(ii) and 17.4.A(iii), but which Water Rate increase limitations will only apply to growth in costs attributable to the following: (i) administration (including pension expenses that can be attributed pursuant hereto) and (ii) capital expenditures, commodity costs and personnel expenses (including pension expenses that can be attributed pursuant hereto) related to 68th Street/Dunne Crib, Eugene Sawyer Water Purification Plant, and South Tunnel Zone. Increases attributable to the Units of Service and differences between estimated and actual costs associated with the construction of the Chicago New Water Supply Infrastructure will not be subject to such limitations.

This Subsection 17.4.B shall survive termination of this Agreement.

17.5. Cost of Service.

A. Cost of Service Methodology.

i. General Methodology. Chicago's cost of service methodology shall be based on the then generally recognized principles and practices in the M1 Manual, and the Parties agree to continue engagement on the development and interpretation of the M1 Manual in the cost of service methodology. If the M1 Manual is revised in a manner that either Party believes will affect the agreed-upon cost of service methodology, that Party will notify the other Party and the Parties will meet and confer to discuss the proposed revisions and the impact on the calculation of cost of service.

The cost of service methodology shall establish the Chicago Water Fund's revenue requirement by the utility-basis approach, and shall allocate such revenue requirements by the commodity-demand method based on the specific facilities used and useful in providing Water service to Joliet. The Parties agree that, as of the Effective Date, these specific facilities are: 68th Street/Dunne Crib Complex; Eugene Sawyer Water Purification Plant; South Tunnel Zone; Tunnel Connection and Tunnel Extension; Low Service Pump

Station; and Chicago Service Valve. The rate base on which any rate of return on rate base will be calculated shall be determined in accordance with the M1 Manual and will include the fair value net plant in service, working capital and construction work in progress.

B. Annual Cost of Service Studies.

i. General. A Cost of Service Study shall be completed annually by Chicago based on the cost of service methodology established in Subsection 17.5.A.

The annual Cost of Service Study will be performed using Audited Financials in conjunction with other information available:

a. to estimate Chicago's projected cost of service to provide Water to Joliet in the Rate Year beginning on the January 1 following the release of the Audited Financials ("Projected AWWA Rate"); and

b. to determine Chicago's actual cost of service to provide Water to Joliet for the prior Rate Year ("Audited AWWA Rate").

For the determination of the Projected AWWA Rate for the next Rate Year, Chicago will perform a projected Cost of Service Study using Chicago's budgeted revenue requirements and projected Units of Service (Joliet's Units of Service as well as the system wide Units of Service). For determination of the Audited AWWA Rate for the previous Rate Year, Chicago will perform an audited Cost of Service Study using Chicago's actual revenue requirements, actual system-wide Units of Service of the Chicago Water System, and the actual Units of Service provided to Joliet excluding the effect on the Actual Peaking Factor associated with an Emergency Demand Event or curtailment or flushing described in Subsection 17.4.B(x). For planned curtailment initiated by Chicago, Joliet will make reasonable efforts to increase storage in the water system in preparation for the curtailment assuming notice is provided per Section 11.8. In instances where a Qualifying Event and an Emergency Demand Event or curtailment or flushing described in Subsection 17.4.B(x) conflict, the Qualifying Event controls.

ii. Timing. In anticipation of providing Water beginning on the Targeted Water Delivery Date, Chicago will perform Cost of Service Studies based upon Audited Financials of the Chicago Water Fund for each of the years 2024 and 2027. In addition, if Chicago provides cost of service information related to the 2021 Rate Year to another wholesale customer, Chicago will make comparable cost of service information available to Joliet.

The Audited AWWA Rate calculated for the years beginning January 1, 2024 and January 1, 2027 will be calculated solely to fulfill the requirements of this Subsection 17.5.B.

Beginning in 2029 and annually thereafter, Chicago will perform a projected Cost of Service Study for the next Rate Year (2030) and an audited Cost of Service Study for the most recently available Rate Year (2028). If, prior to the performance of the audited Cost of Service Study for 2028, Joliet determines that the Second Rate Period will begin more than one year after the Targeted Water Delivery Date, then Chicago will not be obligated to perform a Cost of Service Study until the later of the 2029 Rate Year or the Rate Year two years prior to the first year in which the Second Rate Period is estimated to begin.

An audited Cost of Service Study for the previous Rate Year will be performed within ninety (90) days following the publication of the Audited Financials of the Chicago Water Fund for the previous fiscal year, which is expected to be on or about June 30 of the year following the year described in each year's Audited Financials. The Projected AWWA Rate calculated based on a projected Cost of Service Study for the following Rate Year will be provided to Joliet no later than October 3 of each year, which will be ninety (90) days prior to the first day of the next year. Joliet shall provide estimated Units of Service for the relevant Rate Year to Chicago not later than June 30 of the prior year beginning with 2030. If no estimate is provided to Chicago, Chicago may use the most recent projections provided pursuant to Subsection 17.3.E or may make the estimates on Joliet's behalf.

C. Joliet Review of Chicago's Annual Cost-of-Service Study.

i. Timing of Reviews. Annually, Joliet will perform a review of Chicago's Annual Cost of Service Study to understand and verify the Audited AWWA Rate for the previous Rate Year, and resulting Annual Reconciliation (as applicable), as well as the Projected AWWA Rate for the next Rate year. After receipt of the necessary information (anticipated to be October 3rd as noted in Subsection 17.5.B(ii), Joliet will have sixty (60) days to review the information and provide comments to Chicago. Chicago shall work in good faith to resolve the comments prior to first day of the next year. Any unresolved comments which affect the projected Cost of Service Study and resulting Projected AWWA Rate will either be addressed mid-year (July 1st) or incorporated into the Audited AWWA Rate and Annual Reconciliation at the end of the Rate Year.

In anticipation of providing Water beginning on the Targeted Water Delivery Date, Joliet will also perform a review of Chicago's Cost of Service Studies based upon Audited Financials of the Chicago Water Fund for each of the years 2024 and 2027. In addition, in 2029, Joliet will perform a review of the Cost of Service Study based on Audited Financials of the Chicago Water Fund in 2028 as well as the Projected AWWA Rate for 2030.

ii. Information to be Provided by Chicago. Chicago shall provide to Joliet the following information to allow for the review of the annual Cost of Service Study which establishes the Audited AWWA Rate as well as the Projected Water Rate:

- a. Memorandum or summary report from Chicago documenting:
 - I. Any changes in cost allocation methods or processes;
 - II. Any changes in data sources for key inputs;
 - III. Any changes in budget or actual cost figures with significant effect on Joliet's rate contributing to a change in Joliet's rate of more than five (5) percent;
 - IV. A summary of the rate update process and results; and
 - V. Audited financial statements including Chicago's Comprehensive Annual Financial Report and an independent auditor's report.

D. Joliet Comprehensive Review of Chicago's Cost-of-Service Study.

i. Timing of Audits. Joliet may, at its option, conduct a comprehensive audit of the Cost of Service Study not more often than once every five years, and, in addition, for any year in which the Projected AWWA Rate to Joliet increases by five (5) percent or more over the prior year.

In anticipation of providing Water beginning on the Targeted Water Delivery Date, Joliet will also perform a comprehensive audit of Chicago's Cost of Service Studies based upon Audited Financials of the Chicago Water Fund for 2024 and 2027.

After receipt of the necessary information (anticipated to be October 3rd as noted in Subsection 17.5.B(ii)), Joliet will have one hundred fifty (150) days to review the information and provide comments to Chicago. Chicago shall work in good faith to resolve the comments within forty-five (45) days after receipt of Joliet's comments. It is understood that this timing extends beyond the period for review otherwise provided in Subsection 17.5.C(i). Any comments which affect the projected Cost of Service Study and resulting Projected AWWA Rate will either be addressed mid-year (July 1st) or incorporated into the Audited AWWA Rate and Annual Reconciliation at the end of the Rate Year.

ii. Information to be Provided by Chicago. As part of this comprehensive audit and any other audit under this Agreement, Chicago shall provide to Joliet all reasonable information and back-up materials used to perform the Cost of Service Study and allow Joliet to make a complete, open-book review of the Cost of Service Study, the various elements of operations and maintenance as well as assessment of the condition and valuation of all capital facilities included in the Cost of Service Study.

The Parties acknowledge that as of the Effective Date, there is certain information that is not yet available relating to certain elements of the cost of service that are needed to complete the audit of the Cost of Service Study. Chicago agrees that to the extent practicable based on the information available to Chicago, Chicago shall provide such reasonable information to enable Joliet to perform audits of the Cost of Service Study, such that cost of service can be verified for conformance to the M1 Manual. Chicago acknowledges that as part of its annual audits of the City of Chicago Department of Water Management Water Fund beginning no later than December 31, 2027 or such information being recorded such that it is included in the 2028 calendar/fiscal year audit, Chicago shall make reasonable efforts to provide the information relating to the elements of the cost of service needed to complete the Cost of Service Study and audit.

The Parties will meet and confer on any differences in the application of the methodology and calculations to allow Joliet to establish its rates to its retail customers and Subsequent Purchasers.

E. Certain Aspects of Cost of Service. The Parties acknowledge and agree that Joliet's cost of service will exclude, without limitation, and to the extent practicable based on the information available to Chicago, the costs incurred by Chicago, as determined by Chicago: (i) to replace the lead service lines of Chicago's retail Water customers; (ii) to install new or replacement Water meters of Chicago's retail Water customers; (iii) to replace Chicago's Water transmission and distribution mains (other than those facilities listed in Subsection 17.5.A(iv) associated with administrative and all other functions, activities, costs and expenses performed or incurred by DWM or other Chicago departments that are directly attributable to Chicago's retail customers; (v) to pay amounts in the revenue requirement for pay-as-you-go Capital Improvements if such improvements will be added to the fair value of infrastructure serving Joliet,

(vi) to pay any amounts due to Chicago employees who do not perform work that pertains to the elements of Water service and delivery used to provide Water service to Joliet, including without limitation for wages, salaries, employee benefits, and pension contributions; and (vii) to pay any amounts due to pension funds for Chicago employees that are attributable to work performed prior to the Targeted Water Delivery Date or any contributions made to those pension funds to cover work performed prior to the Targeted Water Delivery Date. The Parties agree that, acknowledging the specific principles and limitations outlined in this Article 17, Chicago has the right to set its own water rates for its customers.

F. Uniformity of Methodology. Except for the clauses in Subsection 17.5.E(iii) and Subsection 17.5.E(vii), the methodology described in this Section 17.5 shall be similar in material respects to the methodology used in the calculation of water rates for other Chicago Wholesale Customers that are charged based upon a cost of service methodology at that time, but only as practicable and based upon Chicago's reasonable efforts.

17.6. Resolution of Article 17 Disputes. The Parties agree that if Joliet disagrees with Chicago's application of the methodology in a Cost of Service Study described in this Article 17 or the application of any other provision in this Article 17, Joliet shall notify Chicago, within sixty (60) days following the date on which Joliet first became aware of the methodology or application of this Article 17 being disputed, that it is invoking the dispute resolution procedure described in Section 20.18.

17.7. Payment From Revenues. This Agreement shall be a continuing valid and binding obligation of Joliet payable from Revenues for the Initial Term and any Renewal Term.

17.8. Charges to Joliet Customers. Joliet covenants and agrees to charge such rate or rates for the furnishing of Water to Joliet Customers so that the Revenues shall at all times be sufficient to pay in full all amounts due to Chicago from Joliet hereunder and in compliance with Section 12.7.

17.9 Exceptions to the Water Rate. Notwithstanding any provision in this Agreement to the contrary, during the Initial Rate Period, the Second Rate Period or the Regular Rate Period, Joliet shall pay the rate specified below for each of the types of Water listed below:

A. If Joliet obtains any Water for domestic use at any portion of the Joliet New Water Supply Infrastructure located within the Chicago corporate boundaries, and that Water is delivered through Chicago's Water distribution system and not through the Point of Demarcation, Joliet shall establish a retail Water account with Chicago and pay the associated retail Water rate charged to Chicago Retail Customers as set from time to time by ordinance and all applicable taxes and fees imposed upon Chicago Retail Customers.

B. During the construction period, if Joliet or its Contractors or Subcontractors working on behalf of Joliet require Hydrant Water on a temporary basis as described in Subsection 11.4.A(ii), Joliet shall be, or shall require its Contractors and Subcontractors taking out the permit to be, responsible for paying to Chicago the standard fee for such usage as provided by applicable Law (as of the Effective Date, applicable Law includes Section 11-12-290 of the Municipal Code of Chicago).

ARTICLE 18. SEWER RATES.

18.1. Sewer Rates. The amounts due for sewer service will be based on the following:

A. If Joliet obtains any Water for domestic use at any portion of the Joliet New Water Supply Infrastructure located within the Chicago corporate boundaries, and that Water is delivered through Chicago's Water distribution system and not through the Point of Demarcation, Joliet shall establish a retail Water account with Chicago and pay for associated sewer service for the facility covered by the account, as provided in applicable Law (as of the Effective Date, this includes Section 3-12-020 of the Municipal Code of Chicago). For such sewer service, Joliet shall pay the then-current rate charged to metered customers within the Chicago corporate boundaries as set from time to time by ordinance and all applicable taxes and fees imposed upon Chicago Retail Customers.

B. Except for sewer charges pursuant to Subsection 18.1.A, in the event of a discharge of Water into the Chicago sewer system from any portion of the Joliet New Water Supply Infrastructure, including but not limited to, any overflow from the Suction Well, Joliet shall be responsible for metering such discharge or otherwise providing to Chicago a good faith estimate to the greatest degree of accuracy practicable. Joliet shall provide such meter reading or estimate to Chicago within thirty (30) days after such a discharge. If no meter reading or estimate is provided within thirty (30) days, Chicago may make a good faith estimate of the quantity discharged. Such discharges to the Chicago sewer system shall be charged in the manner provided for in applicable Law (as of the Effective Date, this includes Section 3-12-020(b) of the Municipal Code of Chicago). If Joliet caused the discharge, Joliet shall pay the associated sewer charges. If Chicago caused the discharge, Chicago shall pay the associated sewer charges. If neither Party caused the discharge, or if the cause of the discharge cannot be determined, then the Parties shall each pay an equal share of the associated charges.

ARTICLE 19. BILLING.

19.1. Frequency. Chicago shall bill Joliet not more frequently than once monthly for: (i) all wholesale Water furnished to Joliet pursuant to this Agreement; and (ii) all other services provided to Joliet under this Agreement, including retail Water service and sewer service.

19.2. Basis. Quantities on invoices to Joliet shall be based on the following:

A. For the purchase of wholesale Water, quantities shall be based on readings of the Measuring Devices at the Point of Measurement to establish the quantity of Water delivered to Joliet. Readings may be adjusted as provided for in Article 16.

B. For the purchase of retail Water quantities shall be based on readings of the metering devices required for purchase of retail Water.

C. For the retail use of the Chicago sewer system, quantities shall be based on readings of the metering devices required for the purchase of retail Water.

D. For discharges into the Chicago sewer system pursuant to Subsection 18.1.B, quantities shall be based on readings or estimates as described in Subsection 18.1.B.

19.3. Form. Each wholesale invoice shall indicate the total amount of wholesale Water delivered and include the readings on the Measuring Devices at the beginning and end of each billing period and shall specify the Water Rate and such adjustments as are applicable, including amounts of the Annual Reconciliation Amount to be applied for the billing period pursuant to Subsection 17.2.A. In addition, separate invoices shall be provided for fees and charges described in Subsections 19.2.B, 19.2.C and 19.2.D.

19.4. Payment Method. Joliet shall timely (as noted on the invoices) pay for Water by a method mutually agreed to by the parties and without causing Chicago to incur any costs associated with said payment.

19.5. Late Payment Penalty. Joliet shall be charged a Late Penalty for late payment of invoices not greater than that charged to metered Chicago Retail Customers inside the Chicago corporate boundaries as provided by applicable Law (applicable Law as of the Effective Date includes Section 11-12-420 of the Municipal Code of Chicago, which provides that the Late Penalty is assessed at one and one fourth percent (1.25%) per month after a payment is not received within twenty-four (24) days of the date the bill was sent).

19.6. Resolution of Billing Disputes. The Parties agree that If Joliet disagrees with the quantities, charges or other aspects of any invoice from Chicago under this Article 19 or the application of any other provision in this Article 19, Joliet shall notify Chicago, within sixty (60) days following the date on which Joliet first became aware of the error or issue under this Article 19 being disputed, that it is invoking the dispute resolution procedure described in Section 20.18.

ARTICLE 20. EVENTS OF DEFAULTS AND REMEDIES

20.1. Joliet Defaults. The occurrence and continuance of any one or more of the following events shall be a Joliet default ("Joliet Default") under this Agreement:

A. the failure of Joliet to pay in full the amount due and shown on any Water invoice due and owing on the due date for such payment as indicated on such Water invoice or any other payment obligations under this Agreement;

B. any default by Joliet under any Easement which remains uncured by Joliet under the terms of said Easement;

C. the failure of Joliet or any Joliet Contractor to maintain insurance coverage as provided in Article 21;

D. Joliet's non-compliance in the performance or observance of any obligation, condition, covenant, provision or term contained in this Agreement that causes injury to individuals, damage to property including without limitation, the Chicago Water System, or impairs the operation of the Chicago Water System or its ability to provide Water;

E. any material representation, warranty or statement made by or on behalf of Joliet in this Agreement shall prove to be untrue in any material respect on the date as of which it was made or deemed made;

F. if Joliet, (i) admits, in writing, that it is unable to pay its debts as such become due, (ii) makes an assignment for the benefit of creditors, (iii) files a voluntary petition under Title 9 of the U.S. Code, or if such petition is filed against it and an order for relief is entered, or if Joliet files any petition or answer seeking, consenting to or acquiescing in any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under the present or any future U.S. bankruptcy code or any other present or future applicable Law, or shall seek or consent to or acquiesce in or suffer the appointment of any trustee, receiver, custodian, assignee, sequestrator, liquidator or other similar official of Joliet, or of all or any substantial part of its properties (in each case, to the extent applicable to a municipality), or (iv) takes any action in furtherance of any action described in this Subsection 20.1.F; or if within ninety (90) days after the commencement of any proceeding against Joliet seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under the present or any future

U.S. bankruptcy code or any other present or future applicable Law, such proceeding has not been dismissed, or if, within ninety (90) days after the appointment, without the consent or acquiescence of Joliet, of any trustee, receiver, custodian, assignee, sequestrator, liquidator or other similar official of Joliet or of all or any substantial part of its properties (in each case, to the extent applicable to a municipality), such appointment has not been vacated or stayed on appeal or otherwise, or if, within ninety (90) days after the expiration of any such stay, such appointment has not been vacated; and

G. Joliet's willful or reckless failure to provide notice, as required by Section 27.1, in the event of an emergency due to a failure, malfunction, maintenance or catastrophic event that will materially impact the Chicago Water System or cause damage to property owned by Chicago, CPD, or the Board of Education of the City of Chicago.

20.2. Covenant Default. Any non-compliance by Joliet in the performance or observance of any obligation, condition, covenant, provision or term contained in this Agreement other than a default under Subsection 20.1.A will constitute a covenant default ("Covenant Default") by Joliet.

20.3. Default for Failure to Pay. The occurrence and continuance of a Joliet Default under Subsection 20.1.A will constitute a default for failure to pay ("Default for Failure to Pay").

20.4. Notice of Default to Joliet. Chicago will provide written notice to Joliet for a Covenant Default or a Default for Failure to Pay. The notice shall be given via Certified Mail, and, if desired by the Parties, may also be given by electronic communications, such as email.

20.5. Joliet Default Cure Periods.

A. Cure Period for Covenant Default. Joliet shall have one hundred and eighty (180) days after the date of receipt of a notice of a Covenant Default ("Initial Cure Period") to remedy the subject Covenant Default. If any such non-compliance by Joliet cannot reasonably be remedied or resolved within the Initial Cure Period, and if Chicago determines that Joliet shall have commenced to remedy such non-compliance within the Initial Cure Period and is thereafter continuing to diligently effect such remedy, then Chicago may extend the Initial Cure Period for an additional ninety (90) days ("Second Cure Period") from the end of the Initial Cure Period. During the Initial Cure Period, the Parties will endeavor to negotiate in good faith for a resolution of the subject Covenant Default.

B. Cure Period for Default for Failure to Pay. Joliet shall have one hundred and eighty (180) days after the date of receipt of a notice of a Default for Failure to Pay ("Initial Cure Period for Payment") to make payments of all amounts due under the Water invoices or any other payment obligations under this Agreement.

C. Specified Joliet Defaults. Upon the occurrence of any Joliet Default under Subsections 20.1.C or 20.1.G, Chicago shall have the right to terminate this Agreement following the Cure Periods specified in Subsection 20.5.A, and prior to the expiration of such Cure Periods, Chicago shall have the other remedies specified in this Article 20.

20.6. Chicago Remedies for Joliet Covenant Defaults. Upon the occurrence of a Covenant Default, if either Joliet has not demonstrated diligence in curing the Covenant Default during the Initial Cure Period or has not cured the Covenant Default during the Second Cure Period, Chicago may, at Chicago's sole discretion and after notifying Joliet, exercise any one or more of the following rights and remedies, as applicable, or by law provided including, without limitation, and as follows:

A. Chicago may issue to Joliet a written notice of Termination pursuant to the provisions of Article 6 and Terminate this Agreement either at the end of the Initial Cure Period or at the end of the Second Cure Period, as applicable; and

B. Chicago may suspend or shut off the supply of Water to Joliet.

C. Chicago may order Joliet to immediately cease and to cause the CMAR to immediately cease all work relating to this Agreement.

D. In the event of Joliet's Covenant Default under Subsections 7.6.J, 9.7.E(vii), 9.7.G and Section 29.4, Chicago shall have among the other remedies set forth in Article 20, the right to require Joliet to pay costs and expenses incurred by Chicago in defending any action before the Internal Revenue Service in connection with any regulatory inquiry, action or proceeding and to reimburse Chicago for any penalties imposed relating to said actions that is a result of said Covenant Default.

The notices under this Section 20.6 shall be given via Certified Mail, and, if desired by the Parties, may also be given by electronic communications, such as email.

20.7. Remedies for Default for Failure to Pay. In the event of a Default for Failure to Pay that remains uncured at the end of the Initial Cure Period for Payment, Chicago may at Chicago's sole discretion and after notifying Joliet, exercise any one or more of the following rights and remedies, as applicable, or by law provided including, without limitation, and as follows:

A. Chicago will have first priority over monies in any operations and maintenance funds relating to Joliet's Water System for payment of amounts currently due and owing for Chicago Water invoices.

B. Chicago and Joliet shall establish an escrow account ("Escrow Account") to which Joliet will deposit all monies from any Joliet Water System General Fund or any other revenue surplus fund relating to the Joliet Water System for the payment of past due amounts due and owing from Water invoices including any applicable Interest and Late Penalties.

i. The Escrow Account shall be managed in trust by an Escrow Agent chosen by Chicago, pursuant to the terms of an Escrow Agreement which shall be in a form satisfactory to Chicago, and shall provide that all fees, costs, and expenses associated with the Escrow Agreement shall be paid by Joliet.

ii. The Escrow Account will remain in place for the period from its establishment until (a) Joliet has fully paid past due amounts due and owing from Water invoices including any applicable interest and Late Penalties; and (b) Joliet remains current in the payment of Water invoices for a period of ninety (90) consecutive calendar days after the date on which all past-due amounts owing from Water invoices have been paid to Chicago ("Escrow Period"), after which the Escrow Account will be closed and any remaining amounts on deposit will be paid to Joliet or at the direction of Joliet.

iii. The Escrow Agent shall disburse funds on a monthly basis from the Escrow Account during the Escrow Period in the following order and as follows:

a. first: for the payment to Chicago of past due amounts due and owing from Water invoices including any applicable Interest and Late Penalties; and

b. second: to Joliet or at the direction of Joliet.

iv. Chicago and Joliet will jointly administer deposits and disbursements from the Escrow Account, subject to each Party's obligations under Section 20.7.

The notices under this Section 20.7 shall be given via Certified Mail, and, if desired by the Parties, may also be given by electronic communications, such as email.

20.8. Escrow Period in Excess of Nine Months. In the event the Escrow Period exceeds nine (9) months from the date of the beginning of an Escrow Period, Chicago will have the option to exercise one or more of the following remedies following notice to Joliet:

A. Termination of Agreement. Chicago may issue to Joliet a written notice of Termination pursuant to the provisions of Article 6; and

B. Suspend or Cease Providing Water. Chicago may suspend or shut off the supply of Water to Joliet.

The notices under this Section 20.7 shall be given via Certified Mail, and, if desired by the Parties, may also be given by electronic communications, such as email.

20.9 Disposition of the Joliet New Water Supply Infrastructure Upon Termination Due to Joliet Default. In the event of a Termination due to a Joliet Default, the provisions of Article 7 will apply.

20.10. Fees, Costs, and Expenses. If there is a Joliet Default and Chicago should employ attorneys or incur other costs and expenses for the collection of the payments due hereunder or the enforcement of performance or observance of any obligation or agreement on the part of Joliet contained in this Agreement, Joliet agrees that it will, after notice and demand therefor, pay to Chicago the reasonable fees and expenses of such attorneys and such other reasonable fees, costs, and expenses so incurred by Chicago.

20.11. Available Remedies. In addition to the remedies set forth above, Chicago may pursue any available remedy in any courts within the venues as provided in Section 28.2 by any action or proceeding at law or in equity, including, but not limited to, damages, injunctive relief and the specific performance of the provisions contained in this Agreement.

20.12. Remedies Cumulative and Concurrent. The remedies of Chicago, as provided in this Agreement shall be cumulative and concurrent and may be pursued singularly, successively or together and may be exercised as often as occasion therefor shall arise and shall not be exclusive but shall be in addition to every other remedy now or hereafter existing at law, in equity, or by statute. Except as otherwise specifically required in this Agreement, notice of the exercise of any right or remedy granted to Chicago in this Agreement is not required to be given.

20.13. Failure to Exercise Remedy Not a Waiver. The failure of Chicago for any period of time or on more than one occasion, to exercise any remedy available to Chicago as described in this Agreement shall not constitute a waiver of the right to exercise the same at any time thereafter or in the event of any subsequent Joliet Default. No act of omission or commission of Chicago, including specifically any discontinued or abandoned proceeding, or failure to exercise any right, remedy or recourse, shall be deemed to be a waiver or release of the same; any such waiver or release is to be effected only through a written document executed by Chicago and then only to the extent specifically recited in said written document.

20.14. Chicago Default. The occurrence and continuance of any one or more of the following events shall be a Chicago default (“Chicago Default”) under this Agreement:

A. any material representation, warranty or statement made by or on behalf of Chicago in this Agreement shall prove to be untrue in any material respect on the date as of which it was made or deemed made;

B. Chicago’s non-compliance in the performance or observance of any obligation, condition, covenant, provision or term contained in this Agreement that causes injury to individuals, damage to property including without limitation to the Joliet Water System, or impairs the operation of the Joliet Water System or its ability to provide Water;

C. the failure of Chicago or any Chicago Contractor to maintain insurance coverage as provided in Article 21;

D. Chicago, without the prior written consent of Joliet: (A) sells, or executes a contract to sell, the Chicago Water System or (B) assigns, or executes a contract to assign, this Agreement; and

E. Chicago’s willful or reckless failure to provide notice in the event of an emergency due to a failure, malfunction, maintenance or catastrophic event that will materially impact the Joliet Water System or cause damage to property owned by Joliet.

Joliet will provide written notice to Chicago of a Default by Chicago. The notice shall be given via Certified Mail, and, if desired by the Parties, may also be given by electronic communications, such as email.

20.15. Chicago Default Cure Periods. Chicago shall have one hundred and eighty (180) days after the date of receipt of a notice of a Default (“Initial Cure Period”) to remedy the subject Default. If any such non-compliance by Chicago cannot reasonably be remedied or resolved within the Initial Cure Period, and if Joliet determines that Chicago shall have commenced to remedy such non-compliance within the Initial Cure Period and is thereafter continuing to diligently effect such remedy, then Joliet may extend the Initial Cure Period for an additional ninety (90) days (“Second Cure Period”) from the end of the Initial Cure Period. During the Initial Cure Period, the Parties will endeavor to negotiate in good faith for a resolution of the subject Chicago Default.

20.16. Specified Chicago Defaults. Upon the occurrence of any Chicago Default under Subsections 20.14.C or 20.14.E, Joliet shall have the right to terminate this Agreement following the Cure Period specified in Section 20.15 and prior to the expiration of such Cure Periods, Joliet shall have the other remedies specified in this Article 20.

20.17. Joliet Remedies upon Chicago Default. Upon the occurrence of a Chicago Default, Joliet may, by written notice to Chicago, declare a Chicago Default and at Joliet’s sole discretion and after notifying Chicago, may exercise any one or more of the following rights and remedies, as applicable, or by law provided including, without limitation:

A. Termination for Chicago Default. Joliet may issue to Chicago a written notice of Termination under Section 6.4 and Terminate this Agreement, at which time the provisions with respect to Termination including, but not limited to Article 7, shall apply.

B. Fees and Expenses. If there is a Chicago Default under any of the provisions hereof and Joliet should employ attorneys or incur other costs and expenses for the collection of

the payments due hereunder or the enforcement of performance or observance of any obligation or agreement on the part of Chicago contained in this Agreement, Chicago agrees that it will, on notice and demand therefor, pay to Joliet the reasonable fees and expenses of such attorneys and such other reasonable fees, costs and expenses so incurred by Joliet.

C. Available Remedies. Joliet may pursue any available remedy in any courts within the venues as provided in Section 28.2 by any action or proceeding at law or in equity, including, but not limited to, damages, injunctive relief and the specific performance of the provisions contained in this Agreement.

D. Remedies Cumulative and Concurrent. The remedies of Joliet, as provided in this Agreement shall be cumulative and concurrent and may be pursued singularly, successively or together and may be exercised as often as occasion therefor shall arise and shall not be exclusive but shall be in addition to every other remedy now or hereafter existing at law, in equity, or by statute. Except as otherwise specifically required herein, notice of the exercise of any right or remedy granted to Joliet in this Agreement is not required to be given.

E. Failure to Exercise Remedy Not a Waiver. The failure of Joliet for any period of time or on more than one occasion, to exercise any remedy available to Joliet as described in this Agreement shall not constitute a waiver of the right to exercise the same at any time thereafter or in the event of any subsequent Chicago Default. No act of omission or commission of Joliet, including specifically any discontinued or abandoned proceeding, or the failure to exercise any right, remedy or recourse, shall be deemed to be a waiver or release of the same; any such waiver or release is to be effected only through a written document executed by Joliet and then only to the extent specifically recited in said written document.

The notices under this Section 20.17 shall be given via Certified Mail, and, if desired by the Parties, may also be given by electronic communications, such as email.

20.18. Dispute Resolution.

A. Negotiation. The Parties desire to avoid and settle without litigation any future disputes that may arise between them relative to this Agreement. Accordingly, the Parties agree to engage in good faith negotiations to resolve any such dispute. The process in this Section 20.18 shall apply and be complied with prior to the exercise of other provisions in this Article 20.

B. Notice and Meeting. If any Party has a dispute about a violation, interpretation, or application of a provision of this Agreement, or a dispute regarding a Party's failure to comply with this Agreement, then that Party may serve on the other Party notice, by Certified Mail or personal service and, if desired by the Parties, may also be given by electronic communications, setting forth in detail the dispute, the provisions of this Agreement to which the dispute is related, and all facts and circumstances pertinent to the dispute. The Parties then, within seven (7) days, shall schedule a date certain for representatives of the Parties to meet in a conference to resolve the dispute. Such conference shall be conducted within thirty (30) days after notice of the dispute has been delivered as provided in this Subsection 20.18.B.

i. Cost of Service Methodology Issues. If the Parties are unable to reach agreement on a dispute about the application or interpretation of the M1 Manual in the preparation of a Cost of Service Study provided by Chicago under this Agreement, then the Parties agree that, in addition to their own water rate and waterworks valuation consultant, they may jointly retain a mutually acceptable independent, neutral, reputable and qualified water rates and waterworks evaluation consultant, who may be part of a reputable and qualified engineering firm. Such consultant and firm shall not be in a

contractual or business relationship with either Chicago or Joliet other than for the work assisting with this Agreement. The role of the independent consultant shall be to meet and confer with the consultants retained by each Party for the purpose of clarifying the M1 Manual and enabling the Parties to reach agreement on the disputed components of the cost of service methodology. The total expense incurred with respect to said independent consultant shall be paid by the Parties on a 50/50 basis.

ii. Disputed Invoices and Payments. In disputes regarding invoices, billing and payments, Joliet shall provide to Chicago the charges that are disputed, the grounds for the dispute, and amount in dispute.

C. Continuation of Services and Payments. During all negotiation proceedings and any subsequent proceedings provided for in this Section 20.18, Chicago and Joliet shall continue to fulfill the terms of this Agreement to the fullest extent possible. Chicago shall continue to provide Water to Joliet as provided by this Agreement. Joliet shall continue to make all payments to Chicago for Water as provided by this Agreement, including all payments about which Joliet has or may have a dispute.

D. Remedies. Provided that the Parties have met their obligations under this Section 20.18, the Parties shall be entitled to pursue such remedies as may be available in law and equity. The requirements of Subsection 20.18.B shall be waived in the event of either significant risk of irreparable harm or significant jeopardy to public health and safety.

20.19. Article 20 to Survive Termination. Article 20 shall survive Termination of this Agreement.

ARTICLE 21. INSURANCE COVERAGE

21.1. Insurance Coverage Requirements - Generally.

A. Insurance Requirements. The Parties will provide insurance coverage at their own expense as set forth in this Article 21. Insurance coverage requirements are based on the four phases of activity and operations (each a "Phase") of the Parties as described in Section 21.3 in the performance of this Agreement.

B. With respect to the limits of liability provided in Subsections 21.3.A and 21.3.B, each Party and each Party's respective Contractor, as applicable may use a combination of primary and excess/umbrella policy/policies to satisfy the limits of liability required in this Agreement. The excess/umbrella policy/policies set forth in Subsections 21.3.A(v) and 21.3.B(v), must provide the same coverages/follow form as the underlying policy/policies.

21.2. Determination of Dates of the Beginning and End of Each Phase. At least ninety (90) days before either Party determines that its activities within a certain Phase will commence (the "Phase Start Date") or will be completed (the "Phase End Date") other than the post-Termination Period, the Parties will coordinate with each other to identify and confirm the Phase Start Date and Phase End Date for each Phase as the Parties perform their obligations under this Agreement. Generally, each Phase Start Date will commence at the beginning of the day after the Phase End Date, and each Phase End Date will terminate at the end of the relevant Phase End Date. In addition, the Parties agree that during Phase III, either Party may desire to perform Additional Major Work not originally anticipated at the applicable Phase Start Date that will require additional insurance coverage requirements.

21.3. Phases I, II, III, IV and Additional Major Work Insurance Coverage Requirements.

A. Phase I. Phase I will be the period beginning on the Effective Date and ending on the day before the date construction begins on the Project Elements to be constructed by Joliet, and as determined by the Parties under Subsection 21.2. No later than thirty (30) days from the Effective Date, Joliet must provide or cause Joliet's Contractor to provide to Chicago the following insurance coverage and requirements for the duration of Phase I. Joliet agrees that during Phase I, Joliet will not perform any geotechnical or construction work, and in the event Joliet performs any geotechnical or construction work, Joliet will have begun Phase II and the insurance coverage requirements of Phase II will apply.

i. Workers Compensation and Employers Liability Insurance. Joliet shall provide and maintain or cause Joliet's Contractor to provide and maintain Workers Compensation Insurance, as prescribed by applicable law covering all employees who are to provide a work or service under this Agreement and Employers Liability coverage with limits not less than \$1,000,000 each accident, \$1,000,000 illness or disease-policy limit, and \$1,000,000 disease-each employee, or the full per occurrence limits of the policy, whichever is greater. Coverage must include but not be limited to: other state endorsement, voluntary compensation and alternate employer, when applicable

ii. Commercial General Liability Insurance (Primary and Umbrella). Joliet shall provide and maintain or cause Joliet's Contractor to provide and maintain Commercial General Liability Insurance or equivalent which must be maintained with limits not less than \$2,000,000 per occurrence, or the full per occurrence limits of the policy, whichever is greater, for bodily injury, personal injury, and property damage liability. Coverages must include but not be limited to the following: All premises and operations, products/completed (for a minimum of two (2) years following the completion of any work done during Phase I, explosion, collapse, underground, separation of insureds, defense, contractual liability (not to include endorsement CG 21 39 or equivalent), no exclusion for damage to work performed by Subcontractors, any limitation of coverage for designated premises or project is not permitted (not to include endorsement CG 21 44 or equivalent) and any endorsement modifying or deleting the exception to the Employer's Liability exclusion is not permitted. If a general aggregate limit applies, the general aggregate must apply per project/location and reinstate annually if applicable, or Joliet or Joliet's Contractor may obtain separate insurance to provide the required limits which will not be subject to depletion because of claims arising out of any other work or activity of Joliet's Contractor. If a general aggregate limit applies to products/completed operations, the general aggregate limits must apply per project and once per policy period.

Chicago must be provided additional insured status with respect to liability arising out of Joliet's Contractor's work, services or operations and completed operations performed on behalf of Chicago. Such additional insured coverage must be provided on ISO form CG 2010 and CG 2037 or on an endorsement form at least as broad for ongoing operations and completed operations. Chicago's additional insured status must apply to liability and defense of suits arising out of Joliet's Contractor's acts or omissions, whether such liability is attributable to Joliet's Contractor or to Chicago. The full policy limits and scope of protection also will apply to Chicago as an additional insured, even if they exceed Chicago's minimum limits required in this Agreement. Joliet's or Joliet's Contractor's liability insurance must be primary without right of contribution by any other insurance or self-insurance maintained by or available to Chicago.

iii. Railroad Protective Liability Insurance. If any work is to be done within fifty (50) feet of or on railroad or transit property, Joliet shall provide and maintain or cause Joliet's Contractor to provide and maintain with respect to the operations that Joliet's

Contractor or Joliet's Subcontractors perform, Railroad Protective Liability Insurance in the name of railroad or transit entity. The policy must have limits not less than the requirement of the operating railroad for losses arising out of injuries to or death of all Persons, and for damage to or destruction of property, including the loss of use thereof. Joliet's or Joliet's Railroad Protective Liability Insurance must be primary without right of contribution by any other insurance or self-insurance maintained by or available to Chicago.

iv. Commercial Automobile Liability Insurance (Primary and Umbrella). Joliet shall provide and maintain or cause Joliet's Contractor to provide and maintain Commercial Automobile Liability Insurance with limits not less than \$1,000,000 per occurrence, or the full per occurrence limits of the policy, whichever is greater, for bodily injury and property damage. Coverage must include but not be limited to the following: ownership, maintenance, or use of any auto whether owned, leased, non-owned or hired used in the performance of the work or devices, both on and off the location sites of the Project Elements to be constructed by Joliet, including loading and unloading. Chicago is to be named as an additional insured on a primary, non-contributory basis. Joliet's or Joliet's Commercial Automobile Liability Insurance must be primary without right of contribution by any other insurance or self-insurance maintained by or available to Chicago.

v. Excess/Umbrella Insurance. Joliet shall provide and maintain or cause Joliet's Contractor to provide and maintain Excess/Umbrella Liability Insurance with limits not less than \$5,000,000 per occurrence, or the full per occurrence limits of the policy, whichever is greater. The policy/policies must provide the same coverages/follow form as the underlying Commercial General Liability, Commercial Automobile Liability, Employers Liability and Completed Operations coverage required herein and expressly provide that the excess or umbrella policy/policies will drop down over reduced and/or exhausted aggregate limit, if any, of the underlying insurance. If a general aggregate limit applies the general aggregate must apply per project/location. The Excess/Umbrella policy/policies must be primary without right of contribution by any other insurance or self-insurance maintained by or available to Chicago.

vi. Contractors Pollution Liability Insurance. When any work is performed which may cause a pollution exposure, Joliet shall provide and maintain or cause Joliet's Contractors to provide and maintain Contractors Pollution Liability Insurance, covering bodily injury, property damage and other losses caused by pollution condition with limits not less than \$5,000,000 per occurrence. Coverage must include completed operations, contractual liability, defense, excavation, environmental cleanup, remediation and disposal. When policies are renewed or replaced, the policy retroactive date must coincide with or precede start of work performed pursuant to this Agreement. A claims-made policy which is not renewed or replaced must have an extended reporting period of two (2) years. Chicago is to be named as an additional insured on a primary, non-contributory basis. Contractors Pollution Liability Insurance must be primary without right of contribution by any other insurance or self-insurance maintained by or available to Chicago.

B. Phase II. Phase II will be the period beginning on the earliest date on which construction begins on the Project Elements either by Chicago or Joliet and ends on the date of final completion of the New Water Supply Infrastructure, and as determined by the Parties under Section 21.2. Thirty (30) days prior to the Phase II Start Date, Joliet must provide to Chicago and Chicago must provide to Joliet the following insurance coverage and requirements for the duration of Phase II. At least thirty (30) days before the Phase Start Date for Phase II for each Party, Joliet

must provide to Chicago and Chicago must provide to Joliet the following insurance coverage and requirements for the duration of Phase II.

i. Workers Compensation and Employers Liability Insurance. Each Party and shall provide and maintain or cause their respective Contractor to provide and maintain Workers Compensation Insurance, as prescribed by applicable law covering all employees who are to provide a work or service under this Agreement and Employers Liability coverage with limits not less than \$1,000,000 each accident, \$1,000,000 illness or disease-policy limit, and \$1,000,000 disease-each employee, or the full per occurrence limits of the policy, whichever is greater. Coverage must include but not be limited to: other state endorsement, voluntary compensation and alternate employer, when applicable.

ii. Commercial General Liability Insurance (Primary and Umbrella). Joliet and Chicago shall provide and maintain or cause its respective Contractor to provide and maintain Commercial General Liability Insurance or equivalent which must be maintained with limits not less than \$2,000,000 per occurrence, or the full per occurrence limits of the policy, whichever is greater, for bodily injury, personal injury, and property damage liability. Coverages must include but not be limited to the following: All premises and operations, products/completed (for a minimum of two (2) years following the date of the first Partial Delivery of Water, explosion, collapse, underground, separation of insureds, defense, contractual liability (not to include endorsement CG 21 39 or equivalent), no exclusion for damage to work performed by Subcontractors, any limitation of coverage for designated premises or project is not permitted (not to include endorsement CG 21 44 or equivalent) and any endorsement modifying or deleting the exception to the Employer's Liability exclusion is not permitted. If a general aggregate limit applies, the general aggregate must apply per project/location and reinstate annually if applicable, or each Party or their Contractor may obtain separate insurance to provide the required limits which will not be subject to depletion because of claims arising out of any other work or activity of each Party's Contractor. If a general aggregate limit applies to products/completed operations, the general aggregate limits must apply per project and once per policy period.

Chicago must be provided additional insured status with respect to liability arising out of Joliet's Contractor's work, services or operations and completed operations performed on behalf of Chicago. Such additional insured coverage must be provided on ISO form CG 2010 and CG 2037 or on an endorsement form at least as broad for ongoing operations and completed operations. Chicago's additional insured status must apply to liability and defense of suits arising out of Joliet's Contractor's acts or omissions, whether such liability is attributable to Joliet's Contractor or to Chicago. The full policy limits and scope of protection also will apply to Chicago as an additional insured, even if they exceed Chicago's minimum limits required in this Agreement. Joliet's or Joliet's Contractor's liability insurance must be primary without right of contribution by any other insurance or self-insurance maintained by or available to Chicago.

Joliet must be provided additional insured status with respect to liability arising out of Chicago's Contractor's work, services or operations and completed operations performed on behalf of Joliet. Such additional insured coverage must be provided on ISO form CG 2010 and CG 2037 or on an endorsement form at least as broad for ongoing operations and completed operations. Joliet's additional insured status must apply to liability and defense of suits arising out of Chicago's Contractor's acts or omissions, whether such liability is attributable to Chicago's Contractor or to Joliet. The full policy limits and scope of protection also will apply to Joliet as an additional insured, even if they exceed Joliet's minimum limits required in this Agreement. Chicago's or Chicago's Contractor's liability insurance must be primary without right of contribution by any other

insurance or self-insurance maintained by or available to Joliet.

iii. Railroad Protective Liability Insurance. If any work is to be done within fifty (50) feet of or on railroad or transit property, each of Chicago and Joliet shall provide and maintain or cause the Party's respective Contractor to provide and maintain with respect to the operations that the Party's respective Contractor or Subcontractors perform, Railroad Protective Liability Insurance in the name of railroad or transit entity. The policy must have limits not less than the requirement of the operating railroad for losses arising out of injuries to or death of all Persons, and for damage to or destruction of property, including the loss of use thereof. Each Party's or each Party's Railroad Protective Liability Insurance must be primary without right of contribution by any other insurance or self-insurance maintained by or available to Joliet or Chicago, as applicable.

iv. Commercial Automobile Liability Insurance (Primary and Umbrella). Each Party shall provide and maintain or cause its respective Contractor to provide and maintain Commercial Automobile Liability Insurance with limits not less than \$1,000,000 per occurrence, or the full per occurrence limits of the policy, whichever is greater, for bodily injury and property damage. Coverage must include but not be limited to the following: ownership, maintenance, or use of any auto whether owned, leased, non-owned or hired used in the performance of the work or devices, both on and off the location sites of the Project Elements to be constructed by the respective Party, including loading and unloading. The opposite Party is to be named as an additional insured on a primary, non-contributory basis. Each Party or each Party's Commercial Automobile Liability Insurance must be primary without right of contribution by any other insurance or self-insurance maintained by or available to Joliet or Chicago, as applicable.

v. Excess/Umbrella Insurance. Each Party shall provide and maintain or cause its respective Contractor to provide and maintain Excess/Umbrella Liability Insurance with limits not less than \$20,000,000 per occurrence, or the full per occurrence limits of the policy, whichever is greater. The policy/policies must provide the same coverages/follow form as the underlying Commercial General Liability, Commercial Automobile Liability, Employers Liability and Completed Operations coverage required herein and expressly provide that the excess or umbrella policy/policies will drop down over reduced and/or exhausted aggregate limit, if any, of the underlying insurance. If a general aggregate limit applies the general aggregate must apply per project/location. The Excess/Umbrella policy/policies must be primary without right of contribution by any other insurance or self-insurance maintained by or available to Joliet or Chicago, as applicable.

vi. Builders Risk Insurance. When either Joliet or Chicago's Contractor undertakes any construction, including improvements, betterments, and/or repairs, each Party shall provide and maintain or cause each party's respective Contractor to provide and maintain Builders Risk Insurance at replacement cost for materials, supplies, equipment, machinery and fixtures that are or will be part of the project. Coverages must include but are not limited to the following: material stored off-site and in-transit, water including overflow, leakage, sewer backup or seepage, landscaping, debris removal and loss resulting from faulty workmanship or materials. The opposite Party is to be named as an additional insured and loss payee. Builders Risk Insurance must be primary without right of contribution by any other insurance or self-insurance maintained by or available to Joliet or Chicago, as applicable.

Each Party's respective Contractor is responsible for all loss or damage to personal property (including materials, equipment, tools and supplies) owned, rented or used by said Contractor.

vii. Surety Performance Bond. Each Party shall provide and maintain or each Party's respective Contractor must provide a surety bond for the applicable Project Elements to be constructed by said Party in the amount of the construction cost plus twenty percent (20%), the bond must be placed with an "A" rated carrier. Each respective Party's Contractor must provide ongoing reporting to the surety company for increased construction costs over the course of the project. Chicago or Joliet, as an opposite Party, as applicable must be named as the obligee on the bond.

viii. Contractors Pollution Liability Insurance. When any work is performed which may cause a pollution exposure, each Party shall provide and maintain or cause their respective Contractors to provide and maintain Contractors Pollution Liability Insurance, covering bodily injury, property damage and other losses caused by pollution condition with limits not less than \$10,000,000 per occurrence. Coverage must include completed operations, contractual liability, defense, excavation, environmental cleanup, remediation and disposal. When policies are renewed or replaced, the policy retroactive date must coincide with or precede start of work performed pursuant to this Agreement. A claims-made policy which is not renewed or replaced must have an extended reporting period of two (2) years. The opposite Party is to be named as an additional insured on a primary, non-contributory basis. Contractors Pollution Liability Insurance must be primary without right of contribution by any other insurance or self-insurance maintained by or available to Joliet or Chicago, as applicable.

ix. All Risk Property Insurance. Each Party shall provide and maintain or cause their respective Contractors to provide and maintain All Risk Property Insurance at replacement value of the property to protect against loss of, damage to, or destruction of the applicable Project Elements to be constructed by said Party. Chicago or Joliet, as the opposite Party, as applicable, is to be named as an additional insured and loss payee/mortgagee, if applicable. All Risk Property Insurance must be primary without right of contribution by any other insurance or self-insurance maintained by or available to Joliet or Chicago, as applicable.

C. Phase III. Phase III will be the period starting at the beginning of the day after the Phase End Date for Phase II and will end on the date of Termination of this Agreement. Sixty (60) days prior to the Phase Start Date for Phase III, the Parties shall meet and confer to discuss Chicago's determination of the insurance coverage required to be provided by Joliet and Chicago in connection with such Parties' ongoing maintenance and operations pursuant to the terms of this Agreement during the duration of Phase III. For both Parties, the insurance coverage requirements under this Subsection 21.2.C shall reflect known and established insurance coverages, including self-insurance, for each Party's operations comparable during Phase III at the time, and known and established insurance exposures associated with operations comparable under Phase III at the time.

D. Phase IV. Phase IV will be the period starting at the beginning of the day after the date of Termination of this Agreement due to Termination or non-renewal of this Agreement and will end on the date the Parties agree the procedures described in Article 7 are completed. Sixty (60) days prior to the commencement of the procedures described in Article 7, Chicago shall determine the insurance coverage required to be provided by Joliet and Joliet's Contractors in connection with said procedures. The insurance coverage requirements under this Subsection 21.3.D shall reflect known and established insurance coverages for the operations comparable to the procedures described in Article 7, including disposition of the Joliet New Water Supply Infrastructure by removal or abandonment, at the time, and known and established insurance exposures associated with the operations comparable to the procedures described in Article 7 at

the time. This Subsection 21.3.D shall survive Termination of this Agreement.

E. Additional Major Work Insurance Coverage Requirements. During Phases II or III Chicago may desire, and during Phases II, III or IV Joliet may desire, to perform certain additional major work relating to Capital Improvements to the Joliet New Water Supply Infrastructure or Chicago New Water Supply Infrastructure, or removal or other disposition of the Joliet New Water Supply Infrastructure or the Chicago New Water Supply Infrastructure, all of the aforesaid not originally anticipated at the applicable Phase Start Date (“Additional Major Work”). The Parties will notify each other of the nature and anticipated start date ninety (90) days prior to the commencement by such Party of the Additional Major Work. Sixty (60) days prior to the commencement of the Additional Major Work, the Parties shall meet and confer to discuss Chicago’s determination of the additional insurance coverage requirements to be provided by the Parties or their Contractors in connection with the Additional Major Work. The insurance coverage requirements under this Subsection 21.3.E shall reflect known and established insurance coverages, including self-insurance, for each Party’s operations comparable to the Additional Major Work at the time and known and established insurance exposures associated with operations comparable to the Additional Major Work at the time.

F. Professional Liability Insurance. During Phases I, II, III or IV, when any architects, engineers, construction managers or other professional consultants perform work, services, or operations in connection with this Agreement for Joliet, Joliet must provide Chicago with evidence of current insurance coverage for Joliet’s architects, engineers, construction managers or other professional consultants (collectively, the “Professional Consultants”). Joliet will cause the Professional Consultants to provide Chicago with evidence of and to maintain Professional Liability Insurance covering acts, errors, or omissions. During each of Phase I and Phase II, the limits will be not less than \$10,000,000. During each of Phase III and Phase IV, the limits will be determined by Chicago as provided in Subsections 21.3.C, 21.3.D, 21.3.E and Section 21.4. Chicago is to be named as an additional insured and loss payee. Coverage must include pollution liability if environment site assessments will be done. When policies are renewed or replaced, the policy retroactive date must coincide with, or precede, start of work on the project. A claims-made policy which is not renewed or replaced must have an extended reporting period of two (2) years. Professional Liability Insurance must be primary without right of contribution by any other insurance or self-insurance maintained by or available to Chicago.

21.4. Insurance Coverage Review. During the period of each Phase, Chicago shall have the right to review, and pursuant to said review, modify, delete, alter or change the insurance coverage requirements set forth in Article 21. Said adjustments shall reflect known and established material changes in insurance coverages for operations comparable under this Agreement including, but not limited to the operation and maintenance of the Joliet New Water Supply Infrastructure and the Chicago New Water Supply Infrastructure or known and established material changes in insurance exposures associated with operations comparable under this Agreement including, but not limited to the operation and maintenance of the Joliet New Water Supply Infrastructure and the Easements. Chicago shall notify Joliet in writing of any adjustments to Joliet’s and Chicago’s insurance coverage requirements and the date on which said adjustment is to go into effect.

21.5. Insurance at Commercially Available Rates. If the Parties determine that any insurance (including the limits or deductibles thereof) required to be maintained under Subsections 21.3.C, 21.3.D and 21.3.E shall not be available at commercially reasonable rates, Joliet will have the right to request that Chicago consent to waive such requirement and Chicago shall not unreasonably withhold, condition or delay such consent. Any such waiver shall be effective only so long as such insurance shall not be available at commercially reasonable rates, provided that during the period of such waiver, Joliet maintains the maximum amount of such

insurance or equivalent insurance, as reasonably determined by Chicago, otherwise available at commercially reasonable rates. This Section 21.5 shall survive Termination of this Agreement.

21.6. Additional Requirements. With respect to the insurance coverage requirements under Article 21, for each of Phases I, II, III, IV and the Additional Major Work, the following additional requirements shall apply:

A. Evidence of Insurance. Joliet or Joliet's Contractor must furnish the City of Chicago, Department of Finance, Risk Management Office ("Risk Management Department"), at the address shown in Attachment A to this Agreement and any other Chicago department designated in writing by Chicago, original Certificates of Insurance and additional insured endorsement, or other evidence of insurance, to be in force on the Phase Start Date of each Phase, on the date of commencement of any Additional Major Work, or on the date Chicago's insurance adjustment goes into effect as provided in Chicago's notice to Joliet under Section 21.4. and as applicable, renewal Certificates of Insurance and endorsement, or such similar evidence, if the coverages have an expiration or renewal date or are adjusted as pursuant to Section 21.4, all as occurring during each Phase during the Term and at post-Termination of this Agreement. Joliet or Joliet's Contractors must submit evidence of insurance thirty (30) days prior to each Phase Start Date and prior to commencing any Additional Major Work. With respect to insurance coverage requirements under Subsection 21.3.D, Joliet or Joliet's Contractor must furnish Chicago with original Certificates of Insurance and additional insured endorsement, or other evidence of insurance, to be in force on the date on which Joliet or Joliet's Contractor commences work relating procedures under Article 7 or Article 20, Joliet and Joliet's Contractors must submit evidence of insurance thirty (30) days prior to the date on which the procedures under Article 8 commence. The receipt of any certificate does not constitute agreement by Chicago that the insurance requirements in this Agreement have been fully met or that the insurance policies indicated on the certificate are in compliance with all requirements of this Agreement. The failure of Chicago to obtain, nor Chicago's receipt of, or failure to object to a non-complying insurance certificate, endorsement or other insurance evidence from Joliet or Joliet's Contractor, its insurance broker(s) and/or insurer(s) will not be construed as a waiver by Chicago of any of the required insurance provisions. Joliet and Joliet's Contractor must advise all insurers of this Agreement provisions regarding insurance. Chicago in no way warrants that the insurance required herein is sufficient to protect Joliet and Joliet's Contractor for liabilities which may arise from or relate to this Agreement. Chicago reserves the right to obtain complete, certified copies of any required insurance policies at any time.

B. Failure to Maintain Insurance. Failure of Joliet or Joliet's Contractor to comply with required coverage and terms and conditions outlined herein will not limit Joliet's liability or responsibility nor does it relieve Joliet or Joliet's Contractor of the obligation to provide insurance as specified in this Agreement.

C. Notice of Material Change, Cancellation or Non-Renewal. In the event that Joliet or Joliet's Contractor becomes aware that through no fault of their own, any insurance coverage will be or has been substantially changed, canceled or non-renewed, Joliet or Joliet's Contractor must promptly provide Chicago with written notice. Otherwise, in the event any insurance coverage will be substantially changed, canceled or non-renewed, Joliet or Joliet's Contractor will provide Chicago with written notice sixty (60) calendar days prior to said change, cancellation or non-renewal. In addition, Joliet or Joliet's Contractor must promptly provide Chicago with written notice of non-payment of insurance coverage premium and in no event shall the notice of non-payment of insurance coverage premium be sent to Chicago more than ten (10) days after the due date of the insurance coverage premium that was not paid.

D. Deductibles and Self-Insured Retentions. Any deductibles or self-insured

retentions on referenced insurance coverages must be borne by Joliet or Joliet's Contractor.

E. Waiver of Subrogation. Joliet hereby waives and shall cause Joliet's Contractor to waive its rights and agrees to require their insurers to waive their rights of subrogation against Chicago under all required insurance herein for any loss arising from or relating to this Agreement. Joliet agrees to obtain and shall cause Joliet's Contractor to obtain any endorsement that may be necessary to effect this waiver of subrogation, but this provision applies regardless of whether or not Chicago received a waiver of subrogation endorsement for Joliet's insurer(s) or Joliet's Contractor's insurer(s).

F. Joliet and Joliet's Contractors' Insurance Primary. All insurance required of Joliet and Joliet's Contractors under this Agreement shall be endorsed to state that Joliet and Joliet's Contractor insurance policy is primary and not contributory with any insurance carrier by Chicago.

G. No Limitation as to Joliet and Joliet's Contractor Liabilities. The coverages and limits furnished by Joliet and Joliet's Contractor in no way limit the Joliet and Joliet's Contractor's liabilities and responsibilities specified within this Agreement or by law.

H. No Contribution by Chicago. Any insurance or self-insurance programs maintained by Chicago do not contribute with insurance provided by Joliet and do not contribute with insurance provided by Joliet's Contractor under this Agreement.

I. Insurance not Limited by Indemnification. The required insurance to be carried is not limited by any limitations expressed in the indemnification language in this Agreement, including but not limited to the language in Section 25.6, or any limitation placed on the indemnity in this Agreement given as a matter of law.

J. Insurance and Limits Maintained. If Joliet or Joliet's Contractor maintains higher limits and/or broader coverage than the minimums shown herein, Chicago requires and shall be entitled to the higher limits and/or broader coverage maintained by Joliet or Joliet's Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to Chicago.

K. Joint Venture or Limited Liability Company. If Joliet's Contractor is a joint venture or limited liability company, the insurance policies must name the joint venture or limited liability company as a named insured.

L. Other Insurance obtained by Joliet or Joliet's Contractor. If Joliet or Joliet's Contractor desires additional coverages, Joliet or Joliet's Contractor, as applicable will be responsible for the acquisition and cost.

M. Subcontractors. Joliet and Joliet's Contractor shall name the Subcontractor(s) as a named insured(s) under Joliet's or Joliet's Contractor's insurance or Joliet and Joliet's Contractor will require Subcontractor(s) to provide and maintain Commercial General Liability, Commercial Automobile Liability, Worker's Compensation and Employers Liability and Professional Liability Insurance and when applicable Excess/Umbrella Liability Insurance with coverage at least as broad as outlined in this Subsection 21.6.M. The limits of coverage will be determined by Joliet or Joliet's Contractor and shall determine if Subcontractor(s) must also provide any additional coverage or other coverage outlined in this Subsection 21.6.M. Joliet and Joliet's Contractor are responsible for ensuring that each Subcontractor has named Chicago as an additional insured where required and name Chicago as an additional insured on an endorsement form at least as broad and acceptable to Chicago. Joliet and Joliet's

Contractor are also responsible for ensuring that each Subcontractor has complied with the required coverage and terms and conditions outlined in this Subsection 21.6.M. When requested by Chicago, Joliet and Joliet's Contractor must provide to Chicago certificates of insurance and additional insured endorsements or other evidence of insurance. Chicago reserves the right to obtain complete, certified copies of any required insurance policies at any time. Failure of the Subcontractors to comply with required coverage and terms and conditions outlined herein will not limit Joliet's or Joliet's Contractor's liability or responsibility.

21.7 Insurance Coverage Disputes. If during Phases I, II, III, IV and at any Additional Major Work, there is either an adjustment to, or determination by Chicago of insurance coverage requirements and if Joliet disagrees with said adjustment or Chicago's determination of insurance coverage requirements under this Article 21, Joliet may invoke the dispute resolution procedure described in Section 20.18.

21.8. Article 21 to Survive Termination. This Article 21 shall survive Termination of this Agreement.

ARTICLE 22. ASSIGNMENT

22.1. Consent to Assignment. Other than the assignment described in Subsection 22.2.C, this Agreement and the duties, obligations and requirements in this Agreement shall not be assigned or transferred by either Party without the prior written consent of the other Party. This Agreement shall be binding on the Parties, and their respective successors, assignees and legal representatives, subject, however, to the provisions of this Agreement limiting assignment.

22.2. Assignment to the Regional Water Commission.

A. Acknowledgment of RWCPA. The Parties acknowledge that Joliet has entered into the RWCPA regarding the formation of a regional water commission.

B. Periodic Updates. Joliet agrees to provide periodic updates to Chicago regarding the status of activities relating to the formation of a regional water commission.

C. RWC Assignment. If a regional water commission is established of which Joliet is a member, Joliet shall assign this Agreement to the Regional Water Commission pursuant to the RWC Assignment subsequent to the establishment of the Regional Water Commission, unless Joliet agrees to sell Water to the Regional Water Commission directly as a Subsequent Purchaser and Joliet continues to purchase Water from Chicago under this Agreement. In connection with the assignment, Joliet is also expected to assign some or all Easements and permits and other approvals issued by Chicago pertaining to this Agreement and the New Water Supply Infrastructure, to the Regional Water Commission. The assignments of the Ancillaries will be included in the RWC Assignment. If a water commission or joint action water agency is established of which Joliet is not a member, Joliet may sell Water to the water commission or joint action water agency upon the same terms as in this Agreement. In the event Joliet, Chicago and the Regional Water Commission wish to enter into the RWC Assignment, the Parties agree to the following, subject to the Regional Water Commission's good faith cooperation and efforts in negotiating the RWC Assignment:

i. Joliet shall provide an RWC Assignment Notice to Chicago of Joliet's intent to effectuate the RWC Assignment, which will include evidence, in a form acceptable to Chicago, of the Regional Water Commission's intent to effectuate the RWC Assignment of this Agreement, not less than ninety (90) days prior to the date on which Joliet proposes

the RWC Assignment will become effective or such other date as is mutually agreed by the Parties subject to the agreement of the Regional Water Commission. The RWC Assignment Notice shall include:

- a. documentation confirming the legal status of the Regional Water Commission, including by-laws;
 - b. a list that includes (1) Joliet, the Purchasers (including members of the Regional Water Commission), and any prospective Purchasers, (2) the State Water Allocations (or, if a State Water Allocation has not yet been received, the allocation that the entity has applied for or, if an application has not yet been submitted, the anticipated amount of the allocation to be requested) of each entity, and (3) for each entity, its status with the Regional Water Commission (i.e. member, customer, or a water purchaser located downstream of a member or customer);
 - c. the State Water Allocation for the Regional Water Commission, if any, or a statement that the Regional Water Commission does not have a State Water Allocation, has not applied for, and does not, to Joliet's knowledge, intend to apply for a State Water Allocation;
 - d. the intergovernmental agreement executed by Joliet and the other members of the Regional Water Commission members authorizing the formation of the Regional Water Commission;
 - e. anticipated activities by Joliet and/or the Regional Water Commission that are expected or required to occur within the first twelve (12) months following the proposed effective date of the RWC Assignment; and
- ii. Joliet and Chicago agree to review this Agreement and the Ancillaries to determine whether any terms and provisions of this Agreement, and the Ancillaries require: (a) amendments to be consistent with State law applicable to the Regional Water Commission, including the length of the Term or (b) a revised Exhibit A reflecting updated State Water Allocations for the Regional Water Commission's Purchasers. The Parties may also agree to additional amendments to this Agreement and the Ancillaries to be included as RWC Assignment. Upon mutual agreement, the Parties may provide a written statement to the Regional Water Commission that no amendments are required. If the Parties agree that amendments are necessary, Joliet and Chicago agree to promptly and jointly prepare the RWC Assignment based on such review and provide the proposed RWC Assignment to the Regional Water Commission for review within sixty (60) days following the RWC Assignment Notice, or within a period mutually agreed to by the Parties.
 - iii. Chicago and Joliet each agree to work in good faith to negotiate the RWC Assignment with the intent to effect the execution of the RWC Assignment not more than ninety (90) days after the RWC Assignment Notice. Chicago's and Joliet's approval and execution of the RWC Assignment shall not be unreasonably withheld or denied.
 - iv. Notwithstanding the other provisions in this Subsection 22.2.C(iv), Chicago's execution of the RWC Assignment shall be on terms agreed upon by Chicago and will be conditioned upon receipt by Chicago from Joliet of the following deliverables at least fifteen (15) days prior to the effective date of the RWC Assignment:

- a. A certified copy of a RWC Resolution authorizing the execution of the RWC Assignment and approving the final form of the RWC Assignment.
- b. A certified copy of the Regional Water Commission by-laws.
- c. Certified copies of all agreements entered into in connection with the formation and the administration of the Regional Water Commission, including but not limited to the RWC IGA; the Management Agreement; and the water supply contracts between the Regional Water Commission and its members, and contracts between members and wholesale customers of the members.
- d. Copies of the State Water Allocations of the members of the Regional Water Commission, the wholesale customers of the Regional Water Commission, the Regional Water Commission, if any, and any other entity downstream of the Regional Water Commission possessing a State Water Allocation as well as a revised Exhibit A reflecting said State Water Allocations.
- e. A list of Regional Water Commission members, Regional Water Commission customers, and prospective Regional Water Commission customers who have not yet received State Water Allocations but have requested or will request a State Water Allocation and, respectively, the amount requested or expected to be requested by said prospective Regional Water Commission customers.
- f. An executed approving opinion of counsel to the Regional Water Commission to the effect that the Regional Water Commission has full legal right, power and authority to enter into the RWC Assignment and accept the assignment.
- g. An executed approving opinion of counsel to Joliet to the effect that Joliet has full legal right, power and authority to enter into the RWC Assignment and this Agreement.
- h. A certificate dated the date of the RWC Assignment signed by a duly authorized officer of the Regional Water Commission to the effect that as of the date of the RWC Assignment, (i) the representations and warranties of the Regional Water Commission in the RWC Assignment and the Amended and Restated Agreement are correct in all material respects; (ii) to the knowledge of the Regional Water Commission after due inquiry, there has not been and the Regional Water Commission is not aware of any event having occurred which, with the passage of time or giving of notice, or both would constitute a default of the Regional Water Commission under the RWC Assignment and the Amended and Restated Agreement; (iii) there has been no material adverse change in the legal status of the Regional Water Commission; (iv) there has been no material adverse change to the validity of the Regional Water Commission's approval of the RWC Assignment and the Amended and Restated Agreement; and (v) the RWC Resolutions and the RWC Act each remain in effect and have not been repealed or superseded.
- i. A certified copy of all ordinances passed by the Joliet City Council in relation to this Agreement and the RWC Assignment ("Joliet Ordinances").
- j. A certificate dated the date of the RWC Assignment signed by the Mayor of Joliet to the effect that as of the date of the RWC Assignment, (i) the

representations and warranties of Joliet in this Agreement are correct in all material respects; (ii) to the knowledge of Joliet after due inquiry, there has not been and there will not be an occurrence that will or may potentially constitute a Joliet Default; (iii) there has been no material adverse change to the validity of Joliet's approval of this Agreement or the RWC Assignment; and (iv) the Joliet Ordinances remain in effect and have not been repealed or superseded.

k. The RWC Assignment executed by Joliet and the Regional Water Commission.

l. Regional Water Commission recognition by IEPA as a public water supply.

m. A date-down certificate from Joliet and the Regional Water Commission dated the effective date of the RWC Assignment to the effect that there has been no change with respect to the deliverables under this Subsection 22.2.C(iv) or the circumstances on which said deliverables are based.

v. Notwithstanding the other provisions in this Subsection 22.2.C(v), Joliet's execution of the RWC Assignment shall be on terms agreed upon by Joliet and will be conditioned upon receipt by Joliet from Chicago of the following deliverables at least fifteen (15) days prior to the date of the RWC Assignment:

a. A certified copy of all ordinances passed by the Chicago City Council in relation to this Agreement and the RWC Assignment ("Chicago Ordinances").

b. An executed approving opinion of the Corporation Counsel of the City of Chicago to the effect that Chicago has full legal right, power and authority to enter into the RWC Assignment.

c. A certificate dated the date of the RWC Assignment signed by a duly authorized signatory of Chicago to the effect that as of the date of the date of the RWC Assignment, (i) the representations and warranties of Chicago in this Agreement are correct in all material respects; (ii) to the knowledge of Chicago after due inquiry, there has not been and there will not be an occurrence that will or may potentially constitute a Chicago Default under this Agreement; (iii) there has been no material adverse change to the validity of Chicago's approval of this Agreement or the RWC Assignment; and (iv) the Chicago Ordinances have not been repealed, superseded and remain in effect.

d. An RWC Assignment executed by Chicago.

e. A date-down certificate from Chicago dated the effective date of the RWC Assignment to the effect that there has been no change with respect to the deliverables under this Subsection 22.2.C(v) or the circumstances on which said deliverables are based.

vi. The Parties acknowledge and agree that their respective compliance with the requirements under this Subsection 22.2.C(vi) is dependent on the successful negotiations with the Regional Water Commission and the Regional Water Commission's ongoing cooperation and good faith efforts in said negotiations and the effectuation of the RWC Assignment. Furthermore, the Parties agree that any Party's noncompliance with

any provision of this Subsection 22.2.C(vi) due to the fault of any action, non-action or opposition of the Regional Water Commission shall not constitute a default of said Party under this Agreement.

22.3. Joliet or Regional Water Commission Obligation. This Agreement does not constitute and shall not be construed to constitute an indebtedness or obligation of the Purchasers, any future members of the Regional Water Commission or any wholesale customers of future members of the Regional Water Commission within the meaning of any statutory or constitutional limitation.

22.4. Sale of Chicago Water System. Chicago agrees that it will not sell the Chicago Water System during the Term, unless otherwise agreed to by Joliet.

ARTICLE 23. ACTIONS UNDER THE EMINENT DOMAIN ACT

23.1. Applicable Law. As of the Effective Date, the Parties recognize that Joliet does not have statutory authority pursuant to Article 20 of the Eminent Domain Act or another State statute to implement proceedings using the quick-take procedure in the Eminent Domain Act. If Joliet or any assignee obtains such statutory authority during the Term, the provisions of this Article 23 will apply. With the exception of Section 23.3, the provisions of this Article 23 shall not apply to any proceedings unless Joliet proposes using the quick-take procedure.

23.2. Consent to Quick-Take. The Parties recognize that Joliet or any assignee may (a) determine that negotiations for the acquisition of property or easements for making any improvement that is part of the New Water Supply Infrastructure have proven unsuccessful and (b) by resolution or ordinance adopt a schedule or plan of operation for the execution of the improvement and make a finding that it is necessary to take such property or easements immediately or at some specified later date in order to comply with the schedule. In any such instance where the property or easement is located within the boundaries of Chicago, if Joliet or its assignee intends to commence proceedings to acquire such property or easements in the same manner provided in Article 20 of the Eminent Domain Act (quick-take proceedings), then Joliet or its assignee shall notify Chicago that it intends to take such an action and include a copy of the resolution or ordinance described above along with a description of efforts made to acquire the property or easements described in the resolution or ordinance. Joliet shall notify Chicago not less than sixty (60) days prior to the date Joliet files an action pursuant to Article 20 of the Eminent Domain Act to take such property or easement; provided, however, that if there are not two meetings of the Chicago City Council that are scheduled or expected to take place within sixty (60) days after the date Chicago receives said notice, Joliet must provide Chicago with notice not less than ninety (90) days before Joliet files such an action. Chicago, in its reasonable discretion, will have the right to either approve or reject the quick-take proceedings under the Eminent Domain Act or another State statute. Chicago will promptly review all information provided. Chicago will notify Joliet if Chicago requires any additional information reasonably related to the property or easements sought and Joliet will promptly respond. Joliet will not commence such proceedings unless and until the acquisition has been approved by Chicago, by ordinance of the Chicago City Council.

23.3. Real Property Excluded from Joliet Actions Under Eminent Domain Act. Joliet will not exercise the disposition of real property through eminent domain proceedings concerning the properties known as Durkin Park Elementary School and Durkin Park, both located at 8445 South Kolin Avenue in Chicago, without prior approval of Chicago. In addition, the Parties agree that as of the date of execution of this Agreement, the planned route of the Transmission Main-Chicago from the Southwest Pumping Station site to Joliet is via the 85th Street right-of-way westward to the Chicago corporate boundaries, and that any change to or deviation from this route shall

require Chicago's review and approval.

ARTICLE 24. THE PARTIES' COMMITMENT TO TRANSPARENCY AND COLLABORATION

24.1. Commitment to Transparency and Collaboration. The Parties recognize the importance of carrying out the terms of this Agreement in a collaborative manner that reflects the Parties' commitment to transparency and collaboration with respect to the long-term relationship of Joliet and Chicago for a reliable supply of Water to Joliet on a cost-effective basis. Key to this collaborative approach is the establishment and ongoing operation of the Advisory Council, each Party identifying appropriate staff liaisons to the other Party, Chicago's agreement to assist Joliet in matters necessary and appropriate to implementation of this Agreement, and Chicago's commitment to deepening regional cooperation and collaboration, all as further described in this Article 24.

24.2. Advisory Council.

A. Council Membership and Goals. The Parties will collaborate to develop an Advisory Council composed of representatives from Chicago, Joliet, and the other municipalities and entities that are, or are under contract to become, wholesale purchasers of Water from Chicago (with Joliet collectively, the "AC Members", individually an "AC Member").

i. Goals. The primary goals of the Advisory Council will be to (a) obtain meaningful input and feedback from the AC Members regarding the management, operation, and financial aspects, including Water rates and capital investments, of the Chicago Water System, (b) establish standing mechanisms for regular and enhanced communication between Chicago and the AC Members, (c) collaborate on water supply and water policy issues in northeastern Illinois, and (d) provide a process for the AC Members to make recommendations for Chicago's consideration as it relates to the reliable and cost-effective delivery of Water. The Advisory Council's primary goals as stated in this Agreement, and its tasks and functions as stated in this Agreement, shall not pertain to Water issues relating to retail customers.

ii. Representatives. AC Member representatives on the Advisory Council shall be employees or staff of their AC Member, in order to establish working relationships among the AC Members regarding goals and tasks of the Advisory Council. AC Member representatives may have one designated alternate who will be authorized to participate when the primary AC Member representative is absent or unavailable.

iii. Meetings. The Parties agree that the first Advisory Council meeting has been held prior to the Effective Date. The Advisory Council shall meet at least once during each calendar quarter during the Term, with designated meeting locations rotating so that meetings will be held in various parts of the territory that includes the AC Members, as provided in the AC Governing Documents.

B. Chicago Commitment to Advisory Council.

i. Maintaining Advisory Council. During the Term, Chicago (a) shall not introduce a motion before the Advisory Council to dissolve, disband or abolish the Advisory Council, and (b) shall abstain from any vote before the Advisory Council to dissolve, disband or abolish the Advisory Council. In addition, Chicago shall not unilaterally dissolve, disband or abolish the Advisory Council during the Term.

ii. Supporting Advisory Council. Chicago shall devote the necessary resources to supporting the activities of the Advisory Council and commits to dedicate one employed staff member for said purpose. Chicago's Chief Financial Officer and the Commissioner of DWM shall share the responsibilities of collaboration with the Advisory Council. In the event of a future vacancy in the position of Commissioner, Chicago will appoint a new Commissioner with the qualifications to lead the operation and management of DWM in a way that it continues to provide quality Water to all of the customers of the Chicago Water System. In all decision-making, DWM will follow its mission of protecting the public health in the most environmentally and fiscally responsible manner by delivering a sufficient supply of exceptional quality Water and efficiently managing waste and storm water.

C. Advisory Council Tasks. The tasks assigned to the Advisory Council shall be generally in furtherance of the goals described in Subsection 24.2.A(i) and shall include, but not be limited to, those listed in Exhibit H. Any non-public information provided to the Advisory Council shall be used by the Advisory Council in accordance with applicable law, as well as the provisions under any non-disclosure or confidentiality agreements that Chicago may require to be executed by the AC Members, and to the extent authorized by applicable law.

D. Advisory Council Organization and Structure. The Parties, in collaboration with the other municipalities and entities defined as AC Members in Subsection 24.2.A, agree to establish the formal structure of the Advisory Council in furtherance of its mission and the primary goals described above. Said structure, which will include AC Governing Documents governing the work of the Advisory Council, shall be presented to the AC Members for consideration and approval by their respective representatives. The Parties agree that the AC Governing Documents will include, but not be limited to, provisions for sufficient advance notice of meetings and agendas to allow AC Member representatives to adequately prepare for meetings, procedures for placement of items on the Council's agenda by the AC Members, and a process for modification of the AC Governing Documents, and will not limit the ability of AC Members to act outside of the Advisory Council structure.

E. Advisory Council Voting. The Advisory Council will vote on two sets of matters:

i. Internal Matters: Recommendations for Chicago's consideration on matters concerning the Chicago Water System. Chicago shall not vote on these matters because Chicago will be the recipient of these recommendations; and

ii. External Matters: Recommendations or positions on matters of water policy, legislation, and public information and education that affect the water industry, consumers of Water produced by the Chicago Water System, and the supply of water in the northern Illinois region. Chicago may vote on these matters and the Parties agree that the votes of Chicago alone will not be sufficient to establish a majority or supermajority vote.

In developing the AC Governing Documents pursuant to Subsection 24.2.D, the Advisory Council shall establish a voting structure that:

i. is weighted among the AC Members based on their proportionate shares of total State Water Allocations for all AC Members;

ii. specifies procedures for votes on matters concerning the Chicago Water System as a whole and for votes concerning aspects of the Chicago Water System that

affect or serve only a portion of the AC Members, as described in Subsection 24.2.E(i), and External Matters, as described in Subsection 24.2.E(ii);

iii. specifies criteria to determine whether a matter being voted upon concerns the Chicago Water System as a whole or aspects of the Chicago Water System that affect or serve only a portion of the AC Members, as described in Subsection 24.2.E(i), or External Matters, as described in Subsection 24.2.E(ii); and

iv. specifies the details as to AC Members' voting rights and the appropriate occasions for such votes, including that the Parties agree that under such procedures, the votes of Chicago alone will not be sufficient to establish a majority or supermajority vote.

F. Action on Recommendations.

i. Pursuant to the procedures to be established in the AC Governing Documents, the Advisory Council shall provide its recommendations on Internal Matters to the Commissioner and a copy to the Chief Financial Officer. The AC Governing Documents shall establish a procedure by which AC Members that disagree with any recommendations on Internal Matters may submit a supplemental report or recommendation to the Commissioner and a copy to the Chief Financial Officer stating their positions on the matter.

ii. Within ninety (90) days after receipt of any recommendation, the Commissioner shall notify the Advisory Council in writing whether the Commissioner will accept and implement the recommendation, reject the recommendation without implementation, or accept in part and reject in part, and the reasons for the action.

iii. If a recommendation on an Internal Matter is rejected in whole or in part, the Advisory Council will have an opportunity to respond and provide additional information to the Commissioner (with a copy to the Chief Financial Officer) within thirty (30) days after receipt of notice of the Commissioner's determination. If the Commissioner's determination to reject a recommendation does not change after the provision of additional information, or if a recommendation of the Advisory Council is rejected by the Commissioner and no additional information is provided, the Commissioner shall report said recommendation to members of the Chicago City Council and Chicago shall notify the AC Members of the Advisory Council that said report has been filed with the City Council.

G. Advisory Council Working Groups. The Advisory Council may establish certain specific goals and may establish working groups necessary in order to execute specific goals (collectively, "Working Groups" and each separate group a "Working Group"). Working Groups shall meet when necessary, based on pending work and matters referred to them, and may make recommendations to the Advisory Council. The AC Governing Documents shall establish a procedure by which AC Members may appoint individuals to Working Groups. The Parties anticipate that Working Groups may be established for at least the following subject matters: financial (including water rates), operations (including water quality), capital projects (including engineering), and management.

H. Variations of Advisory Council Structure, Operations and Tasks from Agreement Provisions. The Parties agree that this Agreement is bilateral and exists only between the Parties and does not bind the Advisory Council to take or fail to take any action. The Parties understand that the Advisory Council may, pursuant to the AC Governing Documents, make changes to its structure, operations, and tasks, which changes may create variations from what is provided in

this Section 24.2 and Exhibit H. Therefore, the Parties agree that any variation in the structure, operations or tasks of the Advisory Council from what is described in Section 24.2 and Exhibit H resulting from actions of the Advisory Council will not constitute an event of default by Chicago or Joliet.

I. Joliet Rights. If the Advisory Council chooses to carry out its functions in a manner that differs materially from the functions as described in Section 24.2 and Exhibit H, or if the Advisory Council no longer exists (due to action by third parties), Joliet shall have the right to provide input directly to Chicago on such functions that are not being addressed by the Advisory Council. Chicago agrees to further cooperate with Joliet (including providing appropriate resources and staff support) with respect to Advisory Council functions in the following manner:

i. If the Advisory Council has ceased its meetings, providing to Joliet an opportunity to meet on a quarterly basis to provide input and recommendations to Chicago on the tasks listed in Exhibit H, and

ii. If the Advisory Council has ceased providing recommendations to Chicago, Chicago agrees to treat any Joliet recommendation in the same manner, including notices and opportunities to respond, as a recommendation of the Advisory Council is required to be treated in Subsections 24.2.F(ii) and 24.2.F(iii).

24.3. Staff Liaisons. Each Party shall assign certain personnel to act as staff liaisons to the other Party. Chicago shall assign the Commissioner, the Chief Financial Officer and the Deputy Comptroller of Financial Policy or their designees to be staff liaisons with Joliet. Joliet will assign the Director of Public Utilities or a designee to be the staff liaison with Chicago. The parties will identify and appoint any replacement personnel, as needed and as necessary, and will notify the other Party as to such replacement.

24.4. Chicago Support. As a further indication of Chicago's support for the transactions contemplated by this Agreement, such as formation of a Regional Water Commission, and pursuing and obtaining funding for contemplated water improvements required for implementation of this Agreement, Chicago will provide assistance to Joliet where appropriate in connection with efforts related to such transactions from time to time where necessary and useful to support Joliet in its efforts to implement this Agreement.

24.5. Regional Collaboration. Chicago is committed to deepening regional cooperation and collaboration by exploring the future possibility of a more formalized regional water structure on issues relating to water system and water supply operation, maintenance, improvements and rate-setting.

ARTICLE 25. INDEMNIFICATIONS

25.1. Indemnification by Joliet. Joliet on behalf of itself and its officials and officers, agents and employees, successors, assigns and anyone claiming by, through or under them, shall indemnify to the extent permitted by law, and keep and save harmless the Chicago Indemnified Parties from and against any Losses which may in any way accrue, and actually suffered or incurred by any such Chicago Indemnified Parties, based upon, arising out of, occasioned by or attributable to (a) any performance by Joliet, or failure by Joliet to comply with, observe or perform any of the covenants, obligations, agreements, terms or conditions in this Agreement, (b) any breach by Joliet of Joliet's representations or warranties set forth in this Agreement, (c) Joliet's design and construction of the Chicago New Water Supply Infrastructure, with the exception of the Tunnel Connection, and the Joliet New Water Supply Infrastructure, (d) Joliet selling and providing Water to Joliet Customers, or (e) Joliet's operation and maintenance

of the Joliet New Water Supply Infrastructure. This indemnity shall not be the exclusive remedy of Chicago, and Chicago shall maintain whatever other right of indemnity it may have under the Law. The indemnification provided herein will be effective to the maximum extent permitted by Law and is not limited by any amount of insurance required under this Agreement.

25.2. Indemnification by Chicago. Chicago on behalf of itself and its officials and officers, agents and employees, successors, assigns and anyone claiming by, through or under them, shall indemnify to the extent permitted by law, and keep and save harmless the Joliet Indemnified Parties from and against any Losses which may in any way accrue, and actually suffered or incurred by any such Joliet Indemnified Parties, based upon, arising out of, occasioned by or attributable to (a) any performance by Chicago, or failure by Chicago to comply with, observe or perform any of the covenants, obligations, agreements, terms or conditions in this Agreement, (b) any breach by Chicago of Chicago's representations or warranties set forth in this Agreement, (c) Chicago's design and construction of the Tunnel Connection, or (d) Chicago's operation and maintenance of the Chicago New Water Supply Infrastructure and Southwest Pumping Station. This indemnity shall not be the exclusive remedy of Joliet, and Joliet shall maintain whatever other right of indemnity it may have under the Law. The indemnification provided herein will be effective to the maximum extent permitted by Law and is not limited by any amount of insurance required under this Agreement.

25.3. Agency for Chicago and Joliet Indemnified Parties. Chicago and Joliet each agrees that it accepts each indemnity in favor of its respective Chicago Indemnified Parties or Joliet Indemnified Parties, as agent and trustee of each applicable Chicago Indemnified Party or Joliet Indemnified Party and agrees that each may enforce an indemnity in favor of and on behalf of said Chicago Indemnified Party or Joliet Indemnified Party.

25.4. Third-Party Claims.

A. Notice of Third-Party Claim. If a Chicago Indemnified Party or Joliet Indemnified Party receives notice of the commencement or assertion of any Third-Party Claim, the Chicago Indemnified Party or Joliet Indemnified Party shall give the Indemnifier reasonably prompt notice thereof. Such notice to the Indemnifier shall describe the Third-Party Claim in reasonable detail (and include a copy of any complaint or related documents) and shall indicate, if reasonably practicable, the estimated amount of the Loss that has been or may be sustained by the Chicago Indemnified Party or Joliet Indemnified Party, as applicable.

B. Defense of Third-Party Claim. The Indemnifier may participate in or assume the defense of any Third-Party Claim by giving notice to that effect. The Indemnifier's right to do so shall be subject to the rights of any insurer or other Party who has potential liability in respect of that Third-Party Claim. The Indemnifier agrees to pay all of its own expenses of participating in or assuming each defense. The Chicago Indemnified Party or Joliet Indemnified Party, as applicable, shall co-operate in good faith in the defense of each Third-Party Claim, even if the defense has been assumed by the Indemnifier and may participate in such defense assisted by counsel of its own choice at its own expense. If the Chicago Indemnified Party or Joliet Indemnified Party, as applicable has not received notice that the Indemnifier has elected to assume the defense of such Third-Party Claim, said Chicago Indemnified Party or Joliet Indemnified Party may assume such defense, assisted by counsel of its own choosing and the Indemnifier shall be liable for all reasonable costs and expenses paid or incurred in connection with the Third-Party Claim and any Loss suffered or incurred by the Chicago Indemnified Party or the Joliet Indemnified Party, as applicable with respect to such Third-Party Claim.

C. Assistance for Third-Party Claims. The Indemnifier and the Chicago Indemnified Party or Joliet Indemnified Party, as applicable, will use all reasonable efforts to make available

to the Defending Party, (i) those employees whose assistance, testimony and presence is necessary to assist the Defending Party in evaluating and in defending any Third-Party Claim, and (ii) all documents, records and other materials in the possession of such Party reasonably required by the Defending Party for its use in defending any Third-Party Claim, and shall otherwise co-operate with the Defending Party. The Indemnifier shall be responsible for all reasonable expenses associated with making such documents, records and materials available and for all expenses of any employees made available by the Chicago Indemnified Party or Joliet Indemnified Party, as applicable, to the Indemnifier under this Agreement, which expense shall not exceed the actual cost to the Chicago Indemnified Party or the Joliet Indemnified Party, as applicable, associated with such employees.

D. Settlement of Third-Party Claims. If an Indemnifier elects to assume the defense of any Third-Party Claim in accordance with Article 25, the Indemnifier shall not be liable for any legal expenses subsequently incurred by the Chicago Indemnified Party or Joliet Indemnified Party in connection with the defense of such Third-Party Claim. However, if the Indemnifier fails to take reasonable steps necessary to defend diligently such Third-Party Claim after receiving notice from the Chicago Indemnified Party or Joliet Indemnified Party that said Chicago Indemnified Party or Joliet Indemnified Party believes in good faith on reasonable grounds that the Indemnifier has failed to take such steps, the Indemnified Party may, at its option, elect to assume the defense of and to compromise or settle the Third-Party Claim assisted by counsel of its own choosing and the Indemnifier shall be liable for all reasonable costs and expenses paid or incurred in connection with said Third-Party Claim. The Chicago Indemnified Party or Joliet Indemnified Party shall not settle or compromise any Third-Party Claim without obtaining the prior written consent of their respective Indemnifier unless such settlement or compromise is made without any liability to, and does not require any action on the part of, said Indemnifier.

25.5. Failure to Give Timely Notice. A failure to give notice in accordance with this Section 25.5 shall not affect the rights or obligations of any Party except and only to the extent that, as a result of such failure, a Party which was entitled to receive such notice was deprived of its right to recover any payment under its applicable insurance coverage or was otherwise directly and materially damaged as a result of such failure. However, this Section 25.5 shall have no effect whatever on Section 29.2 and the rights of the Parties with respect to said Section 29.2.

25.6. No Limitation by Performance Bond or Insurance. Chicago and Joliet each understands and agrees that any performance bond or insurance protection required by this Agreement, or otherwise provided by Chicago or Joliet, shall in no way limit the responsibility to indemnify, keep and save harmless and defend the Chicago Indemnified Party or Joliet Indemnified Party, as applicable, as herein provided. In defending the Chicago Indemnified Party or Joliet Indemnified Party or their respective representatives, the Indemnifier may utilize any immunities which may be raised on behalf of the defendants provided that the use of such immunities by the Indemnifier shall not result in a judgment against the defendants.

25.7. Indemnification by Joliet Customers. Joliet shall cause each water contract with a Purchaser to include provisions that shall indemnify and hold harmless the Chicago Indemnified Parties from any and all claims and liabilities, including but not limited to Water quality claims by the subject Purchaser.

25.8. Survival of Article 25. The provisions of this Article 25 shall survive any termination of this Agreement.

ARTICLE 26. FORCE MAJEURE

26.1. Definition. The term “Force Majeure” as used in this Agreement shall mean the event caused by acts of God, and other events including but not limited to material damage or destruction by fire or other casualty, acts of terrorism, riots, demonstrations, actions of the state or federal government, pandemics, and other events or conditions beyond the reasonable anticipation or control of the Party affected, which in fact interferes with the ability of such Party to discharge its obligations under this Agreement.

26.2. Notice. The Party affected by Force Majeure shall, upon the occurrence of the Force Majeure event, immediately give notice and full particulars of such Force Majeure event to the other Party.

26.3. Suspension of Party Obligations. 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 claimed, but for no longer period. Any Party giving such notice shall endeavor to remove or overcome such inability as soon as practicable.

ARTICLE 27. NOTICE

27.1. Notice. For purposes of this Agreement, unless otherwise specified in Section 4.3, Subsection 5.2.A, Section 6.3, Section 20.4, Section 20.6, Section 20.7, Section 20.8, Section 20.14, Section 20.17 and Section 20.18, any notice, demand or request required by this Agreement shall be given in writing at the addresses set forth in Attachment A if to Chicago and Attachment B if to Joliet, by any of the following means: (A) personal service; (B) electronic communications, such as email; (C) nationally recognized overnight courier service; or (D) Certified Mail. Notice of an emergency relating to this Agreement, including the delivery of Water to Joliet, shall also be given to the other Party as soon as practicable at the emergency contact listed on Attachment A or Attachment B, as applicable.

27.2. Change of Addressee or Addressee Contact Information for Notice. Each Party to this Agreement has the right to change, add to, remove or replace the addressee or addressee contact information, for future notices and communications to them in matters pertaining to this Agreement or for emergencies or both, by giving notice complying with the requirements of this Section 27.2 and which shall include an updated and executed Attachment A or Attachment B, as applicable as provided in Section 5.3. No notice of a change of address will be effective until actually received.

27.3. When Received. Unless otherwise provided in Section 4.3, Subsection 5.2.A, Section 6.3, Section 20.4, Section 20.6, Section 20.7, Section 20.8, Section 20.14, Section 20.17 and Section 20.18, notices shall be deemed received upon the first to occur of (A) the date of actual receipt, (B) the date an email is sent, unless notice of non-delivery is received; (C) the date that is one (1) Business Day after deposit with a nationally recognized overnight courier service as evidenced by a receipt of deposit, or (D) the date that is three (3) days after deposit in the U.S. mail, as Certified Mail, evidenced by a receipt.

ARTICLE 28. CHOICE OF LAW; VENUE

28.1. Choice of Law. This Agreement shall be governed by, and interpreted and enforced in accordance with, the laws of the State of Illinois (excluding any conflict of laws rule or principle which might refer such interpretation to the laws of another jurisdiction).

28.2. Venue. Any action or proceeding relating in any way to this Agreement may be brought and enforced in the federal or state courts in the State of Illinois in the County of Cook or the County of Will, and each of Chicago and Joliet hereby irrevocably submits to the jurisdiction

of such courts with regard to any such action or proceeding, and irrevocably waives, to the fullest extent permitted by applicable Law, any objection it may have now or hereafter to the laying of venue of any such action or proceeding in such courts and any claim that any such action or proceeding brought in any such court has been brought in an inconvenient forum.

ARTICLE 29. MISCELLANEOUS PROVISIONS

29.1. No Amendments Causing Adverse Effect. Neither Joliet nor Chicago will amend the provisions of any trust indenture or any other documents or agreements relating to any financing or debt obligation with respect to the Joliet Water System or the Chicago Water System, respectively, that will or may cause a material adverse effect on the other Party's rights or obligations under this Agreement.

29.2. Cooperation of the Parties in Proceedings. In connection with any regulatory or judicial inquiry, claim, suit, action or proceeding or other matter by or before any court or any local, state or federal governmental authority or agency including, but not limited to the Internal Revenue Service, the Securities and Exchange Commission, IDNR or IEPA, in connection with this Agreement or the financing of all or any portion of the New Water Supply Infrastructure (collectively, the "Proceeding"), the Parties shall cooperate with each other in connection with said Proceeding. Cooperation shall include, but not be limited to promptly providing all documentation, records and information relating to this Agreement, or the financing of the New Water Supply Infrastructure, and each Party's performance of this Agreement, the delivery of Water to Joliet, and the delivery of Water from Joliet to the Joliet Customers. Notwithstanding the forgoing, each Party shall not be restricted from defending itself in relation to any such Proceedings. This Section shall not apply to any Proceeding in which the Parties are making one or more claims against each other.

29.3. Joliet Water Rate Methodology. As of the Effective Date Joliet, in its water contracts applies the methodology for water rates for its Subsequent Purchasers and Joliet Retail Customers based on generally applicable water rates that charge water customers on the same basis which in certain cases may vary by category of user and amount of usage in a consistent manner and method.

29.4. Tax-Exempt Status of Debt. Neither Party shall take any action, omit to take any action or permit any other party to take or omit to take any action in connection with its Water System that may cause the interest on any tax-exempt water revenue bonds, financing, or debt obligations (collectively, "Bonds") issued by the other Party to be taxable and included in the gross income of the holders of the Bonds for purposes of federal income taxation.

29.5. Entire Agreement of the Parties. The Parties agree that as of the Effective Date, the provisions of this Agreement shall supersede the provisions of that certain Preliminary Water Supply Agreement between Chicago and Joliet dated March 17, 2021. This Agreement, together with the Easements, shall constitute the entire agreement of the Parties.

29.6. Survival. Joliet and Chicago agree that the following provisions of this Agreement, shall survive the Termination of this Agreement and remain fully enforceable: Section 6.2, Section 6.4, Section 6.5, Article 7, Article 20, Article 21, Article 25, Subsection 17.4.B and Subsection 21.3.D.

29.7. No Violation of the Law by the Parties. It is the Parties' intention that nothing in this Agreement shall be deemed to cause either Party to violate any applicable Law.

29.8. No Waiver. No officer, official or agent of Chicago or Joliet has the power to

amend, modify or alter this Agreement or waive any of its conditions as to bind Chicago or Joliet by making any promise or representation not contained in this Agreement.

29.9. Severability. If any part of this Agreement shall be determined by a court of competent jurisdiction to be illegal or invalid for any reason, or in conflict with any law, the remainder of this Agreement shall remain valid to the maximum extent possible.

29.10. Counterparts. This Agreement may be executed in counterparts, each of which shall be executed by the Parties and deemed to be an original, and all of which shall constitute one and the same Agreement.

[Signature Page Follows]

IN WITNESS OF THIS AGREEMENT, the City of Chicago and the City of Joliet have caused this Agreement to be executed by their respective officials and shall be effective as of the date and year written on the first page hereof.

CITY OF CHICAGO,
an Illinois home rule municipal corporation

CITY OF JOLIET,
an Illinois home rule municipal corporation

By: _____
Andrea R.H. Cheng, Ph.D., P.E.
Commissioner
Department of Water Management

By: _____
Robert O' Dekirk
Mayor

ATTEST:

By: _____
Christa M. Desiderio
City Clerk

ATTACHMENT A – NOTICES TO THE CITY OF CHICAGO

Notices to Chicago pertaining to this Agreement shall be given to the following:

If to Chicago:

City of Chicago
Department of Water Management – Commissioner’s Office
1000 East Ohio Street
Chicago, Illinois 60611
Attention: Commissioner
Email: andrea.cheng@cityofchicago.org

With a copy to:

City of Chicago
City Hall
121 North LaSalle Street -7th Floor
Chicago, Illinois 60602
Attention: Chief Financial Officer
Email: Jennie.Bennett@cityofchicago.org

With a copy to:

City of Chicago
Department of Law
121 North LaSalle Street -6th Floor
Chicago, Illinois 60602
Attention: Finance and Economic
Development Division
Email: James.McDonald@cityofchicago.org

Notices to Chicago in the case of any emergency related to this Agreement, including the delivery of Water to Joliet:

City of Chicago
Department of Water Management
Central Dispatch
24-Hour Number
(312) 747-3570

Notices to Chicago pertaining to insurance coverage under this Agreement:

City of Chicago Department of Finance - Risk Management Office
333 South State Street, Room 400
Chicago, Illinois 60604
Attention: Risk Manager

Acknowledged as complete and accurate as of the date executed below:

CITY OF CHICAGO

By: _____
Name _____
Date: _____

ATTACHMENT B – NOTICES TO THE CITY OF JOLIET

Notices to Joliet pertaining to this Agreement shall be given to the following:

If to Joliet:

City of Joliet
150 West Jefferson Street
Joliet, Illinois 60432
Attention: Director of Public Utilities
Email: publicutilities@joliet.gov

With a copy to:

City of Joliet
150 West Jefferson Street
Joliet, Illinois 60432
Attention: City Manager
Email: citymanager@joliet.gov

With a copy to:

City of Joliet
150 West Jefferson Street
Joliet, Illinois 60432
Attention: Corporation Counsel
Email: legal@joliet.gov

Notices to Joliet in the case of any emergency related to this Agreement, including the delivery of Water to Joliet:

City of Joliet
Department of Public Utilities
24-hour number
(815) 724-4220

Acknowledged as complete and accurate as of the date executed below:

CITY OF JOLIET

By: _____
Name _____
Date: _____

INDEX OF EXHIBITS

<u>Exhibit</u>	<u>Description</u>
A	Allocations
B	Bidding and Procurement, Contracting and Construction-Related Engineering Services
C	Design and Planning of Project Elements
D	Review Process, Timeframe and Milestones
E	Key Permits, Bidding, Procurement, Contracting
F	Intergovernmental Agreement
G	Water Storage Volumes
H	Advisory Council Tasks

EXHIBIT A –ALLOCATIONS

Joliet and Subsequent Purchasers	State Water Allocation (MGD)										
	2030	2031	2032	2033	2034	2035	2036	2037	2038	2039	2040
Joliet	15.615	15.742	15.869	15.996	16.123	16.250	16.391	16.532	16.673	16.814	16.955
Channahon	See Note #1										
Aqua Illinois—Oakview Avenue Water Works Service Area	See Note #2										
TOTAL ALLOCATION (MGD)	15.615	15.742	15.869	15.996	16.123	16.250	16.391	16.532	16.673	16.814	16.955
2x Allocation (MGD)	31.23	31.484	31.738	31.992	32.246	32.5	32.782	33.064	33.346	33.628	33.91
Then Current LSPS Capacity (MGD)**	55.27	55.27	55.27	55.27	55.27	55.27	55.27	55.27	55.27	55.27	55.27
Contractual Maximum Day Demand (MGD)*	31.23	31.484	31.738	31.992	32.246	32.5	32.782	33.064	33.346	33.628	33.91

*Lesser of 2x Allocation and Then Current LSPS Capacity.

**Anticipated Capacity. Will be confirmed once permit IEPA permit is obtained.

Note #1: Channahon has applied for a Lake Michigan Allocation permit.

Note #2: Aqua Illinois has not applied for a Lake Michigan Allocation permit but would need to obtain a Lake Michigan Allocation permit prior to receiving Water.

Joliet and Subsequent Purchasers	State Water Allocation (MGD)										
	2040	2041	2042	2043	2044	2045	2046	2047	2048	2049	2050
Joliet	16.955	17.120	17.285	17.450	17.614	17.779	17.944	18.109	18.274	18.439	18.604
Channahon	See Note #1										
Aqua Illinois—Oakview Avenue Water Works Service Area	See Note #2										
TOTAL ALLOCATION (MGD)	16.955	17.120	17.285	17.450	17.614	17.779	17.944	18.109	18.274	18.439	18.604
2x Allocation (MGD)	33.91	34.24	34.57	34.9	35.228	35.558	35.888	36.218	36.548	36.878	37.208
<i>Then Current LSPS Capacity (MGD)**</i>	55.27	55.27	55.27	55.27	55.27	55.27	55.27	55.27	55.27	55.27	55.27
Contractual Maximum Day Demand (MGD)*	33.91	34.24	34.57	34.9	35.228	35.558	35.888	36.218	36.548	36.878	37.208

(CONTINUED FROM PAGE 1)

*Lesser of 2x Allocation and Then Current LSPS Capacity.
 **Anticipated Capacity. Will be confirmed once permit IEPA permit is obtained.

Note #1: Channahon has applied for a Lake Michigan Allocation permit.

Note #2: Aqua Illinois has not applied for a Lake Michigan Allocation permit but would need to obtain a Lake Michigan Allocation permit prior to receiving Water.

EXHIBIT B – BIDDING AND PROCUREMENT, CONTRACTING, AND CONSTRUCTION-RELATED ENGINEERING SERVICES

Project Element	Bidding and Contracting Entity	Applicable Contracting and Procurement Requirements	Construction-Related Engineering Services
Tunnel Connection	Chicago	Chicago	Resident Engineer: Chicago Construction Administrator: Chicago Observer: Joliet
Tunnel Extension	Joliet	Chicago/Joliet	Resident Engineer: Joliet Construction Administrator: Joliet Observer: Chicago
Low Service Pump Station (including Chicago Service Valve)	Joliet	Chicago/Joliet	Resident Engineer: Joliet Construction Administrator: Joliet Observer: Chicago
Suction Well	Joliet	Chicago/Joliet	Resident Engineer: Joliet Construction Administrator: Joliet Observer: Chicago
High Service Pump Station (including Meter Vault)	Joliet	Chicago/Joliet	Resident Engineer: Joliet Construction Administrator: Joliet Observer: Chicago
Transmission Main - Chicago	Joliet	Joliet	Resident Engineer: Joliet Construction Administrator: Joliet

Construction-Related Engineering Services During Construction

The Project On-Site Representatives and the Construction Administrator will be responsible for performing engineering services during construction of the Project Elements, including the items listed below, based on their assigned role for Construction-Related Engineering Services in the table above.

1. The Resident Engineer will be on site full-time and will be responsible for:
 - Documenting the work (daily/weekly reports) – weather, labor on site, equipment on site, deliveries, work installed, unknown conditions encountered, field changes, testing and as-built conditions.
 - Inspecting the work installed.
 - Checking materials delivered to the site against the shop drawings.

- Determining quantities for payment.
 - Issuing field orders (changes with no additional time or cost).
 - Coordinating inspections with other Parties.
2. The Construction Administrator will be responsible for:
- Reviewing shop drawings.
 - Reviewing pay requests.
 - Responding to questions (RFIs) from the Contractor.
 - Initiating and responding to change orders (changes with additional time or cost).
 - Preparing as-built drawings.
3. The Observer will be onsite full-time observing the work and coordinating the work with the existing operations at the Southwest Pumping Station Site. In addition, the Observer will be responsible for obtaining and communicating input from its Party on:
- Shop drawings.
 - Pay requests.
 - RFIs from the Contractor.
 - Change orders as requested by the Party holding the Construction Contract.

EXHIBIT C – DESIGN AND PLANNING OF PROJECT ELEMENTS

1. As used in Article 8 and this Exhibit C, the following phrases will have the following meanings:

“Design Preferences” means that the final design will incorporate preferred equipment and manufacturers of the Party that will own the Project Element, where such preferences are permitted by Applicable Law For Project Elements to be designed by Joliet but owned by Chicago, where a preference of equipment or manufacturer has not been provided by Chicago, Joliet will provide manufacturers of proposed equipment for Chicago’s review. Except as otherwise mutually agreed by the Parties, at least three manufacturers will be included in the bidding documents.

A. “Lead Party” means the Party designated in this Agreement as the Party responsible for entering into the contract for design, construction, or Construction-Related Engineering Services, as applicable, of a Project Element and coordinating with the other Party in connection with that Project Element.

B. “Collaborating Party” means the Party designated in this Agreement as the Party responsible for collaborating with and providing input to the Lead Party.

C. “Site Coordination” during the design phase means Joliet working with Chicago to identify existing DWM site operations and infrastructure as well as new DWM site operations pertaining to the Project Elements and combining existing and new operations and infrastructure to develop reasonable site use and site access in the design documents for the Project Elements.

2. The requirements in the following table shall apply to the respective Project Element:

Project Element	Design Preferences	Planning/Design
Tunnel Connection	Chicago	Lead Party: Chicago Collaborating Party: Joliet
Tunnel Extension	Chicago	Lead Party: Joliet Collaborating Party: Chicago
Low Service Pump Station (including Chicago Service Valve)	Chicago	Lead Party: Joliet Collaborating Party: Chicago
Suction Well	Joliet	Lead Party: Joliet Review for Site Coordination: Chicago
High Service Pump Station (including Meter Vault)	Joliet	Lead Party: Joliet Review for Site Coordination: Chicago
Transmission Main-Chicago	Joliet	Lead Party: Joliet

EXHIBIT D – REVIEW PROCESS, TIMEFRAMES AND MILESTONES

The review process, timeframes for completion of activities and key milestones are described below for the design of the Project Elements listed below:

1. Milestone Engineering Design Submittals for the Tunnel Connection. Time periods for review are included in the review process below. Only if unforeseen circumstances arise, or if either Party requires additional information and therefore requires additional time, the Parties will confer and agree on a reasonable additional timeframe beyond number of Business Days stated below.

A. Chicago will design the Tunnel Connection to each of these specified levels: 10%, 30%, 60%, 90%, 100%.

B. Chicago will submit complete design documents to Joliet for the applicable level of review.

C. Joliet will have twenty (20) Business Days from the date of receipt of the design documents to review the design documents and provide written comments related to the configuration, location, elevation, or other features of the Tunnel Connection that have the potential to impact the design, construction, or operation of the Tunnel Extension or Low Service Pump Station, utilizing a comment review form developed mutually by the Parties. This review shall not relieve Chicago's design consultants of any responsibility for the accuracy and completeness of the Tunnel Connection design. Joliet and Chicago will meet during the review period prior to Joliet providing written comments to discuss any initial comments and questions. If no comments are received within twenty (20) Business Days after Joliet's receipt of the design documents, Chicago will notify Joliet that comments were due and must be provided within five (5) Business Days. If no comments are received after 5 Business Days from the time that notice was given, Chicago will proceed to the next level of design.

D. Chicago will review comments within fifteen (15) Business Days after receipt of comments from Joliet. After the fifteenth (15th) day, Joliet and Chicago will meet and confer on resolution of comments within five (5) additional Business Days. The Commissioner and the Director of Public Utilities for Joliet shall be in attendance at this meeting to authorize resolution of comments.

E. Chicago will document resolution of comments utilizing the comment review form and provide to Joliet within five (5) Business Days after the comment resolution meeting.

F. The Director of Public Utilities for Joliet shall sign the comment review form approving comment resolution within ten (10) Business Days after receipt of documented comment resolution from Chicago. If the signed comment review form is not received within ten (10) Business Days after Joliet's receipt of the documented comment resolution form, Chicago will notify Joliet that approval was due and must be provided within five (5) Business Days. If the signed comment review form is not received after five (5) Business Days from the time that notice was given, the documented comment resolution form will be deemed approved as submitted and Chicago will proceed to the next level of design.

G. Chicago will incorporate comments, as agreed to by the Parties pursuant to the process described above, into design for next level.

2. Ten Percent Engineering Design Submittal Completed. The Parties agree that Joliet's Basis of Design Report for the Alternative Water Source Program, December 2020, has been completed. In June, 2021, Joliet submitted relevant excerpts thereof to Chicago to serve as the 10% design submittal for the Tunnel Extension, Low Service Pump Station, Chicago Service Valve, Meter Vault, Suction Well and High Service Pump Station at the Southwest Pumping Station Site and Durkin Site. Chicago approved this submittal as the 10% design on September 3, 2021.

3. Milestone Engineering Design Submittals for the Tunnel Extension, Low Service Pump Station and Chicago Service Valve. Time periods for review are included in the review process below. Only if unforeseen circumstances arise, or if either Party requires additional information and therefore requires additional time, the Parties will confer and agree on a reasonable additional timeframe beyond number of Business Days stated below.

A. Joliet will design each of the Tunnel Extension, Low Service Pump Station and Chicago Service Valve to each of these specified levels: 30%, 60%, 90%, 100%.

B. Joliet will submit complete design documents to Chicago for the applicable level of review for each of the Tunnel Extension, Low Service Pump Station and Chicago Service Valve.

C. Chicago will have thirty (30) Business Days from the date of receipt of the design documents to review the design documents and provide written comments utilizing a comment review form developed mutually by the Parties. This review shall not relieve Joliet's design consultants of any responsibility for the accuracy and completeness of the design of these Project Elements. Joliet and Chicago will meet during this review period prior to Chicago providing written comments to discuss any initial comments and questions. If no comments are received within thirty (30) Business Days after Chicago's receipt of the design documents, Joliet will notify Chicago that comments were due and must be provided within five (5) Business Days.

D. Joliet will review comments within five (5) Business Days after receipt of comments from Chicago. After the fifth (5th) day, Joliet and Chicago will meet and confer on resolution of comments within five (5) additional Business Days. The Commissioner and the Director of Public Utilities for Joliet shall be in attendance at this meeting to approve resolution of comments.

E. Joliet will document resolution of comments utilizing the comment review form and provide to Chicago within five (5) Business Days after the comment resolution meeting.

F. The Commissioner shall sign the comment review form approving comment resolution within ten (10) Business Days after receipt of documented comment resolution from Joliet. If the signed comment review form is not received within 10 Business Days after Chicago's receipt of the documented comment resolution form, Joliet will notify Chicago that approval was due and must be provided within five (5) Business Days.

G. Joliet will incorporate comments, as agreed to by the Parties pursuant to the process described above, into design for the next level.

H. The Parties may agree during the comment resolution meeting held pursuant to Subsection 3.D of this Exhibit D, that specific comments may require additional information and discussion to resolve and, therefore, will be addressed separately. The Parties will agree on a process for resolution of these comments during the comment

resolution meeting. Formal resolution of these comments will require written approval by the Commissioner and the Director of Public Utilities for Joliet.

4. Milestone Engineering Design Submittals for the Meter Vault, Suction Well and High Service Pump Station. Time periods for review are included in the review process below. Only if unforeseen circumstances arise, or if either Party requires additional information and therefore requires additional time, the Parties will confer and agree on a reasonable additional timeframe beyond number of Business Days stated below.

A. Joliet will design each of the Meter Vault, Suction Well and High Service Pump Station to each of these specified levels: 30%, 60%, 90%, 100%.

B. Joliet will submit design documents related to site layout, site use, air gaps and meter layout to Chicago for the applicable level of review.

C. Chicago will have twenty (20) Business Days from the date of receipt of the design documents to review the design documents and provide written comments regarding site layout, site use, air gaps and meter layout utilizing a comment review form developed mutually by the Parties. This review shall not relieve Joliet's design consultants of any responsibility for the accuracy and completeness of the design of these Project Elements. Joliet and Chicago will meet during the review period prior to Chicago providing written comments to discuss any initial comments and questions. If no comments are received within twenty (20) Business Days after Chicago's receipt of the design documents, Joliet will notify Chicago that comments were due and must be provided within five (5) Business Days. If no comments are received after five (5) Business Days from the time that notice was given, Joliet will proceed to the next level of design.

D. Joliet will review comments within five (5) Business Days after receipt of comments from Chicago. After the fifth (5th) day, Joliet and Chicago will meet and confer on resolution of comments within five (5) additional Business Days. The Commissioner and the Director of Public Utilities for Joliet shall be in attendance at this meeting to authorize resolution of comments.

E. Joliet will document resolution of comments utilizing the comment review form and provide to Chicago within five (5) Business Days after the comment resolution meeting.

F. The Commissioner shall sign the comment review form approving comment resolution within ten (10) Business Days after receipt of documented comment resolution from Joliet. If the signed comment review form is not received within ten (10) Business Days after Chicago's receipt of the documented comment resolution form, Joliet will notify Chicago that approval was due and must be provided within five (5) Business Days. If the signed comment review form is not received after five (5) Business Days from the time that notice was given, the documented comment resolution form will be deemed approved and Joliet will proceed to the next level of design.

G. Joliet will incorporate comments, as agreed to by the Parties pursuant to the process described above, into design for next level.

5. Design Review Milestone Dates. Design review milestone dates shall be consistent with the process described above required for the Project Elements being designed by each Party. Chicago and Joliet agree that the Business Day milestones for review (such as twenty (20) Business Days or ten (10) Business Days) are critical in order for Chicago to provide Water to Joliet by the Targeted Water Delivery Date. With each submittal by a Party to the other Party

of complete design documents to initiate the applicable level of design review for a Project Element, the designing Party shall include a schedule of applicable dates for the design review milestones in the review process for such documents based on the requirements of Section 1, Section 3 or Section 4 of this Exhibit D, as applicable. If Joliet provides more than one submittal to Chicago for design review, resulting in overlapping design review milestone dates for action by Chicago, the Parties will confer to address such an overlap and determine the timeframe for review. The Parties mutually agree to adjust dates for reviews and approvals as necessary to accommodate holidays and other extenuating circumstances.

EXHIBIT E – KEY PERMITS, BIDDING, PROCUREMENT CONTRACTING

KEY PERMITS*

Project Element	Party Role in IEPA Permitting	Party Role in Chicago Permitting (Building, ROW and other necessary Permits)
Tunnel Connection	For IEPA Construction Permit, Chicago’s design engineer signs off; Chicago prepares and signs off as Applicant to Construct and as Owner	Chicago and its design engineer and Contractor apply for Permits; Chicago signs off as Owner; Chicago issues Permits
Tunnel Extension	For IEPA Construction Permit, Joliet’s design engineer signs off; Joliet prepares and signs off as Applicant to Construct; Chicago signs off as Owner**	Joliet and its design engineer and Contractor apply for Permits; Chicago signs off as Owner; Chicago issues Permits
Low Service Pump Station (including Chicago Service Valve)	For IEPA Construction Permit, Joliet’s design engineer signs off; Joliet prepares and signs off as Applicant to Construct; Chicago signs off as Owner**	Joliet and its design engineer and Contractor apply for Permits; Chicago signs off as Owner; Chicago issues Permits
Suction Well	For IEPA Construction Permit, Joliet’s design engineer signs off; Joliet prepares and signs off as Applicant to Construct and as Owner	Joliet and its design engineer and Contractor apply for Permits; Joliet signs off as Owner; Chicago issues Permits
High Service Pump Station (including Meter Vault)	For IEPA Construction Permit, Joliet’s design engineer signs off; Joliet prepares and signs off as Applicant to Construct and as Owner	Joliet and its design engineer and Contractor apply for Permits; Joliet signs off as Owner; Chicago issues Permits
Transmission Main – Chicago	For IEPA Construction Permit, Joliet’s design engineer signs off; Joliet prepares and signs off as Applicant to Construct and as Owner	Joliet and its design engineer and Contractor apply for Permits; Joliet signs off as Owner; Chicago issues Permits

*This Exhibit E only identifies key permits with IEPA and Chicago and is not meant to be exhaustive. For all other permits, the Parties shall meet and confer regarding their respective roles in connection with any other permits required.

**These references are to Chicago as the intended ultimate Owner of these three Project Elements. However, Joliet will be the owner during construction. Ownership of these Project Elements will be transferred to Chicago pursuant to Section 8.14.

Chicago will sign as Owner for IEPA Operating Permits for the Tunnel Connection, the Tunnel Extension, and the Low Service Pump Station following completion of satisfactory bacteriological testing. Joliet will sign as Owner for IEPA Operating Permits for the Suction Well, the High Service Pump Station and the Transmission Main-Chicago.

EXHIBIT F – INTERGOVERNMENTAL AGREEMENT

INTERGOVERNMENTAL AGREEMENT

This Intergovernmental Agreement ("Agreement") is made and entered into on or as of the 30th day of July, 2021, by and between the Chicago Park District, an Illinois body politic and corporate (the "Park District"), and the City of Chicago, an Illinois municipal corporation and home rule unit of government (the "City"), acting by and through its Department of Water Management ("DWM").

RECITALS

WHEREAS, the City has entered into that certain "Preliminary Agreement with Respect to an Anticipated Water Supply Agreement between the City of Chicago and the City of Joliet" dated March 17, 2021 (the "Preliminary Agreement"), pursuant to which the City has agreed to provide to the City of Joliet ("Joliet," which also includes, as applicable, any regional water commission or similar body which may succeed Joliet with respect to the Preliminary Agreement and water supply) the necessary easements, access rights and other necessary property interests on land the City owns, and on land the City will acquire from the Park District, to enable Joliet to construct the Project Elements (as described in the Preliminary Agreement) and coordinate discussions and negotiations with the Park District to obtain and enter into the agreements necessary for implementation of the Water Supply Agreement (as defined in the Preliminary Agreement); and

WHEREAS, the City desires to acquire an approximately 87,500 square foot portion of the Park District's Durkin Park located at 8445 South Kolin Avenue, Chicago, Illinois 60652 as described and depicted on Exhibit A attached hereto (the "Existing Parkland") for use in support of the City's water system, specifically for the construction and operation of subsurface and surface facilities as part of the Project Elements necessary for the supply of water to Joliet (the "Project," as generally depicted on Exhibit B attached hereto); and

WHEREAS, the Park District wishes to convey the Existing Parkland to the City for the aforesaid purpose; and

WHEREAS, subject to the approval of the City Council of the City (the "City Council"), the City shall grant to Joliet a permanent easement under, in, and upon the Existing Parkland to facilitate the Project (the "Permanent Easement") and consistent with the Preliminary Agreement, pursuant to an easement agreement to be entered into between the City and Joliet (the "Permanent Easement Agreement"); and

WHEREAS, as part of the Project, the City will require Joliet to restore, at its sole cost and expense, the surface of the Existing Parkland and construct a new athletic field and support facilities thereon (currently anticipated to be a junior-sized soccer field with accompanying necessary improvements), based on a combination of consideration of community input and the Park District's specifications, and with additional details regarding the replacement improvements to be negotiated among the City, the Park District and Joliet and included in the Lease (defined below), the Permanent Easement Agreement and/or the Water Supply Agreement; and

WHEREAS, subject to the approval of the City Council, the City shall lease the Existing Parkland to the Park District pursuant to a lease or leases to be entered into between the City and the Park District (collectively, the "Lease"), with the Lease term having two parts: (1) commencing on the Closing Date and ending or pausing upon commencement of construction of the Project by Joliet and having a break in Park District use and occupancy of the Existing Parkland during the construction period; and (2) re-commencing when the Project is completed

on the Existing Parkland and Durkin Park by Joliet; in addition, the Lease shall not allow any activities that would interfere with the Suction Well (as defined in the Preliminary Agreement) on the Existing Parkland, the provision of water by the City to Joliet, and Joliet's provision of water to the Joliet Customers (as defined in the Preliminary Agreement); and

WHEREAS, the Park District's rights under the Lease shall be subject to Joliet's rights under the Permanent Easement Agreement (such that Joliet shall be a third party beneficiary of the Lease), and Joliet's rights under the Permanent Easement Agreement shall be subject to the Park District's rights under the Lease (such that the Park District shall be a third party beneficiary of the Permanent Easement Agreement); and

WHEREAS, Article VII, Section 10 of the 1970 Constitution of the State of Illinois authorizes state and local governing bodies to cooperate in the performance of their responsibilities by contracts and other agreements; and

WHEREAS, the Intergovernmental Cooperation Act, 5 ILCS 220/1 *et seq.*, similarly authorizes public agencies, including units of local government and school districts, to contract with one another to perform any governmental service, activity or undertaking; and

WHEREAS, the Local Government Property Transfer Act, 50 ILCS 605/0.01 *et seq.* (the "Act"), authorizes and provides for municipalities (as defined in the Act) to convey, grant or transfer real estate held by the municipality to any other municipality upon the agreement of the corporate authorities governing the respective parties; and

WHEREAS, by ordinance adopted by the City Council on July 21, 2021, the City authorized the execution of this Agreement by the commissioner of the Department of Water Management ("Commissioner"), or any Commissioner designee, and the City's performance of its obligations hereunder; and

WHEREAS, by resolution adopted on July 16, 2021, the Board of Commissioners of the Park District authorized the execution of this Agreement by the Park District's General Superintendent, the Park District's performance of its obligations hereunder and the conveyance of the Existing Parkland by quitclaim deed;

NOW, THEREFORE, in consideration of the mutual promises, terms and conditions set forth herein, and for the purpose of intergovernmental cooperation, the parties agree as follows:

1. Recitals. The foregoing recitals are incorporated in and made a part of this Agreement by this reference.

2. Transfer of Existing Parkland to the City; Reversion. The Park District agrees to convey by quitclaim deed ("Deed"), and the City agrees to accept, all of the Park District's right, title and interest in the Existing Parkland on the Closing Date as defined in Section 4 hereof and subject to the terms of this Agreement. The City agrees to accept the Existing Parkland in its "as is" condition and subject to a reversionary clause, providing that the Existing Parkland is subject to reversion to the Park District in the event that Joliet elects, pursuant to Section 4.4 of the Preliminary Agreement or the Water Supply Agreement (as defined in the Preliminary Agreement), not to construct a portion of the Project on the Existing Parkland or to otherwise use the Existing Parkland for water supply purposes; and such reversion to the Park District will be in the Existing Parkland's then-existing "as is" condition (unless required otherwise

in the Permanent Easement Agreement, specifically but not by way of limitation to restore any pre-existing athletic uses) and subject, however, to Joliet's environmental remediation and indemnification obligations, if any, under the Permanent Easement Agreement. If the Preliminary Agreement or Water Supply Agreement (as defined in the Preliminary Agreement) is terminated prior to the date on which the Park District commences the use and enjoyment of the Existing Parkland under the Lease after construction of the Project and related restoration, then the City may terminate this Agreement and the Park District shall purchase the Existing Parkland back from the City for one dollar.

3. No Obligation to Provide Title and Survey; No Warranties; Obligation to Provide Joliet Access and Temporary Easements.

(a) No Title and Survey. The Park District shall have no obligation to provide a survey of the Existing Parkland, or title insurance. The City acknowledges and agrees that it is not relying on any express or implied warranties, promises, guarantees, or representations made by the Park District or anyone acting or claiming to act on behalf of the Park District in acquiring the Existing Parkland.

(b) No Warranties. The City hereby expressly disclaims any express or implied warranties or covenants as to the value, character, quality, quantity or condition of the Existing Parkland or any improvements thereon.

(c) Joliet Access. Notwithstanding the foregoing, the Park District agrees to cooperate with the City and Joliet in providing other available documentation and information with respect to the Existing Parkland and Durkin Park and, subject to submission to the Park District by Joliet of the Park District's customary submission requirements for such approval processes, providing all necessary temporary rights of entry and other access to Joliet as Joliet requires in order to do the necessary inspections, examinations and testing, including without limitation environmental and geotechnical assessments, of the Existing Parkland and Durkin Park in connection with determining whether the Existing Parkland and Durkin Park are an appropriate location for the Project.

(d) Joliet Temporary Easements. The Park District agrees to cooperate with the City in providing temporary easements for construction to Joliet for the purpose of Joliet's construction of the Project as well as restoration, which areas include, without limitation, the following, which are referred to collectively as the "Temporary Easements": (1) the parcel west of the Existing Parkland, which is labeled on Exhibit B as "1.0 Acre Construction Easement" ("Primary Construction Easement"), and (2) any areas adjacent to and north of the Existing Parkland and Primary Construction Easement required to transition the grade from those areas to the grade level of the remainder of Durkin Park.

4. Closing Date. The closing date for transfer of title to the Existing Parkland ("Closing Date") will occur on a date mutually acceptable to the parties hereto, and on a date that will not impair or impede progress on the Project, and in no event later than December 31, 2022. The Permanent Easement Agreement, the agreement(s) for Temporary Easements and the Lease shall be approved and executed concurrently with the Closing Date.

5. Delivery of Possession. Possession of the Existing Parkland shall be delivered on the Closing Date.

6. Park District's Continuing Right to Use Prior to Closing Date. From the date hereof through the Closing Date, subject to the terms and conditions of this Agreement, the Park District shall have the right to continue to use the Existing Parkland for its existing purposes, which purposes shall in no way increase the difficulty of or burden on Joliet's Project. The City shall provide the Park District with at least fourteen (14) days' notice of any scheduled plan for Joliet to use the Existing Parkland prior to the Closing Date, in order to minimize disruption to any previously scheduled community activities on the Existing Parkland. The Park District shall not enter into any agreements for the sale, development, improvement or use of the Existing Parkland or Durkin Park without the prior written consent of the City, which shall be in the City's sole discretion and consistent with the Preliminary Agreement. The foregoing prohibition shall exclude only improvement and use agreements entered into by the Park District in the ordinary course of business and necessary to the continued use and operation of the Existing Parkland for its existing purposes but which shall in no way increase the difficulty of or burden on Joliet's Project. Prior to the Closing Date, the Park District shall maintain the Existing Parkland in good condition and repair, in a manner consistent with all other similarly situated Park District properties.

7. Land Approvals. The Park District shall have no obligation to obtain any zoning or other land use approvals that may be required for the Project; provided, however, the Park District agrees to cooperate with the City and Joliet to the extent necessary to obtain such approvals.

8. Environmental Condition.

(a) The City acknowledges and agrees that the Park District has made no representations concerning the presence or absence of Hazardous Substances (as defined below) on the Existing Parkland or any property adjacent thereto and that the Park District has made no representations concerning the existence or non-existence of any violation, past or present, of Environmental Laws (as defined below) affecting the Existing Parkland. The City hereby waives any and all claims, actions, causes of action, suits or demands of any nature against the Park District which it may have now or in the future for damages, payments, costs, or expenses (including, without limitation, claims of contribution or indemnity and any expenses of investigation of the condition of the Existing Parkland, regardless of the results of such investigation) suffered by the City as a result of the presence or possible presence of any Hazardous Substances on or near the Existing Parkland or the violation, at any time in the past, present, or future, of any Environmental Laws affecting the Existing Parkland. This waiver shall survive the Closing Date.

(b) As used in this Agreement, the following terms shall have the following meanings:

"Environmental Laws" means any and all Laws relating to the regulation and protection of human health, safety, the environment and natural resources now or hereafter in effect, as amended or supplemented from time to time, including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601 et seq., the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq., the Hazardous Materials Transportation Act, 49 U.S.C. § 5101 et seq., the Federal Water Pollution Control Act, 33 U.S.C. § 1251 et seq., the Clean Air Act, 42 U.S.C. §

7401 et seq., the Toxic Substances Control Act, 15 U.S.C. § 2601 et seq., the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. § 136 et seq., the Occupational Safety and Health Act, 29 U.S.C. § 651 et seq., any and all regulations promulgated under such Laws, and all analogous state and local counterparts or equivalents of such Laws, including, without limitation, the Illinois Environmental Protection Act, 415 ILCS 5/1 et seq., and the common law, including, without limitation, trespass and nuisance.

“Hazardous Substances” means any toxic substance, hazardous substance, hazardous material, hazardous chemical or hazardous, toxic or dangerous waste defined or qualifying as such in (or for the purposes of) any Environmental Laws, or any pollutant, toxic vapor, or contaminant, and shall include, but not be limited to, petroleum (including crude oil or any fraction thereof), any radioactive material or by-product material, polychlorinated biphenyls and asbestos in any form or condition.

“Laws” means all applicable federal, state, county, municipal or other laws (including common law), statutes, codes, ordinances, rules, regulations, executive orders or other requirements, now or hereafter in effect, as amended or supplemented from time to time, and any applicable judicial or administrative interpretation thereof, including any applicable judicial or administrative orders, consent decrees or judgments.

9. Permanent and Temporary Easements and Other Park Properties; Payments.

(a) Restoration on Permanent Easement. After completion of construction of the Project on the Existing Parkland, the City will require Joliet to restore the Existing Parkland and construct the athletic field and facilities as are generally described in the Fifth Whereas Clause of this Agreement.

(b) Replacement Facilities on Other Park Properties. The City acknowledges that the Park District’s use of the southern portion of Durkin Park (including both the Existing Parkland and the adjacent portion of Durkin Park that will be required for the Primary Construction Easement as shown on Exhibit B) will be disrupted during the construction of the Project on Durkin Park. The City and Joliet will negotiate an agreement pursuant to which Joliet will, on the Closing Date, pay an amount, subject to negotiation, which the Park District will use to construct improvements at other Park District locations in the area (which may include other portions of Durkin Park not subject to the Permanent Easement or Temporary Easements) to accommodate increased demand due to the unavailability of the Existing Parkland and the Temporary Easements. The funds for said improvements: (i) shall be provided so long as the City grants the Permanent Easement to Joliet and the Park District grants the Temporary Easements required for the Project to Joliet, and (ii) shall be in the amount negotiated between the City and the Park District. Additional details regarding the replacement improvements will be negotiated among the City, the Park District and Joliet and included in the Lease, the Permanent Easement Agreement, agreement(s) for Temporary Easements and/or the Water Supply Agreement.

(c) Permanent Easement. . The City shall grant to the Park District some or all of any compensation received from Joliet for the use of the Permanent Easement.

10. Warranties and Representations. In connection with the execution of this Agreement, the City and Park District each warrant and represent that it is legally authorized to execute and perform or cause to be performed this Agreement under the

terms and conditions stated herein.

11. Non-liability of Public Officials. No official, employee or agent of the City or the Park District shall be charged personally by the other party with any liability or expense of defense or be held personally liable under any term or provision of this Agreement or because of the City's or Park District's execution or any breach hereof.

12. Entire Agreement. This Agreement, and the exhibits attached hereto and incorporated herein, shall constitute the entire Agreement between the parties. There are no representations, warranties, conditions or other agreements, whether direct or collateral, or express or implied, that form part of or affect this Agreement, or that induced any party to enter into this Agreement or on which reliance is placed by any party, except as specifically set forth in this Agreement.

13. No Third Party Beneficiary. This Agreement is for the sole and exclusive benefit of the City, the Park District and their respective successors and assigns.

14. Counterparts. This Agreement is comprised of two or more identical counterparts, each of which may be fully executed by the parties and, executed, will be deemed an original having identical legal effect.

15. Governing Law. This Agreement shall be governed by and construed in accordance with Illinois law, without regard to its conflicts of law principles.

16. Authority. The conveyance and acceptance of the Existing Parkland is authorized under the Local Government Property Transfer Act.

17. Amendments. No changes, amendments, modifications or discharge of this Agreement, or any part hereof, shall be valid unless in writing and signed by authorized officers of the City and Park District or their respective successors and/or assigns.

18. Severability. If any provisions of this Agreement shall be held or deemed to be or shall in fact be inoperative or unenforceable as applied in any particular case in any jurisdiction or in all cases because it conflicts with any other provision or provisions hereof or of any constitution, statute, ordinance, rule of law or public policy, or for any other reason, such circumstances shall not have the effect of rendering any other provision or provisions herein contained invalid, inoperative, or unenforceable to any extent whatever. The invalidity of any one or more phrases, sentence clauses or sections contained in this Agreement shall not affect the remaining portions of this Agreement or any part thereof.

19. Interpretation. Any headings of this Agreement are for convenience of reference only and do not define or limit the provisions thereof. Words of any gender shall be deemed and construed to include correlative words of the other genders. Words importing the singular number shall include the plural number and vice versa, unless the context shall otherwise indicate. All references to any exhibit or document shall be deemed to include all supplements and/or amendments to any such exhibits or documents entered into in accordance with the terms and conditions thereof. All references to any person or entity shall be deemed to include any person or entity succeeding to the rights, duties and obligations of such persons or entities in

accordance with the terms and conditions of this Agreement.

20. Cooperation. The City and Park District agree at all times to cooperate fully with one another in the implementation of this Agreement.

21. Assignment. Neither the City nor the Park District shall assign, delegate or otherwise transfer all or any part of their rights or obligations under this Agreement, or any part hereof, unless as approved in writing by the other party. The absence of written consent shall void the attempted assignment, delegation or transfer and shall render it of no effect.

22. Force Majeure. Neither the City nor Park District shall be obligated to perform any of their obligations hereunder if prevented from doing so by reasons outside of their reasonable control, including but not limited to, events of force majeure.

23. Time of Essence. Time is of the essence in this Agreement.

24. Waiver. The failure by either party to enforce any provisions of this Agreement shall not be construed as a waiver or limitation on that party's right to subsequently enforce and compel strict compliance with every provision of this Agreement.

25. Notices. All notices and communications concerning this Agreement shall be sent as follows:

If to the Park District:	Chicago Park District 541 North Fairbanks Chicago, Illinois 60611 Attn: General Superintendent
With a copy to:	Chicago Park District Office of the General Counsel 541 North Fairbanks Chicago, Illinois 60611 Attn: General Counsel
If to the City:	City of Chicago Department of Water Management 1000 East Ohio Street Chicago, Illinois 60611 Attn: Commissioner
With a copy to:	City of Chicago Department of Law Real Estate and Land Use Division 121 N. LaSalle Street, Room 600 Chicago, Illinois 60602 Attn: Deputy Corporation Counsel

Unless otherwise specified, any notice, demand, communication or request required hereunder shall be given in writing at the addresses set forth above and shall be effective (a) if given by

personal service, upon delivery, (b) if sent by overnight courier, effective on the business day after delivery to such courier, or (c) if sent by registered or certified mail, return receipt requested, effective three (3) business days after mailing. The notice address for a party may be changed by giving notice in the manner provided in this section.

26. Termination. This Agreement shall commence as of the date of execution and, except as expressly provided herein, shall terminate on the Closing Date, upon which any contractual responsibilities to the other party shall terminate (except for those which expressly survive termination).

(Signature Page Follows)

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

CITY OF CHICAGO, a municipal corporation
and home rule unit of government,

By: Andrea R.H. Cheng
Andrea R.H. Cheng, Ph.D., P.E.
Commissioner
Department of Water Management

CHICAGO PARK DISTRICT, an Illinois body politic and corporate

By: _____
Michael P. Kelly
General Superintendent and CEO

ATTEST:

By: _____
Kantrice Ogletree
Secretary

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

CITY OF CHICAGO, a municipal corporation
and home rule unit of government,

By: _____
Andrea R.H. Cheng, Ph.D., P.E.
Commissioner
Department of Water Management

CHICAGO PARK DISTRICT, an Illinois body politic and corporate

Michael P. Kelly
By: _____
Michael P. Kelly
General Superintendent and CEO

ATTEST:

SARAH
By: Sarah Gelder (Jul 29, 2021 16:07 CDT)
Sarah Gelder
Secretary

AGREEMENT EXHIBIT A

LEGAL DESCRIPTION AND DEPICTION OF EXISTING PARKLAND

THE EXISTING PARKLAND CONSISTS OF APPROXIMATELY 2-ACRES IN THE SOUTHEAST CORNER OF DURKIN PARK (MEASURING APPROXIMATELY 250 FEET NORTH-SOUTH BY 350 FEET EAST-WEST), WHICH PARK IS DESCRIBED AS PARCELS 1 AND 2 IN THE ATTACHED.



File Number: 41057971

EXHIBIT "A"

PARCEL 1: LOTS 1, 2, 3, 4, 5, 6, 7 AND 8 TOGETHER WITH THE WEST 1/2 OF VACATED TRIPP AVENUE LYING ADJACENT TO SAID LOTS 1, 2, 3, 4 AND 5, AND TOGETHER WITH THE EAST 1/2 OF VACATED KILDARE AVENUE LYING ADJACENT TO SAID LOTS 6, 7 AND 8, ALL IN BLOCK 37 INCLUDING THE VACATED ALLEY RUNNING NORTH AND SOUTH IN SAID BLOCK 37, IN FREDERICK H. BARTLETT'S CITY OF CHICAGO SUBDIVISION OF LOTS 2 AND 3 IN ASSESSOR'S SUBDIVISION OF SECTION 34, TOWNSHIP 38 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN (EXCEPT THAT PART OF THE EAST 189 FEET OF THE WEST 1/2 OF THE SOUTHWEST 1/4 OF SAID SECTION 34 AS LIES IN SAID LOT 3 AND EXCEPT RAILROAD), IN THE CITY OF CHICAGO, COUNTY OF COOK, AND STATE OF ILLINOIS.

PARCEL 2: LOTS 1, 2, 3, 4, 5, 6, 7, 8, 9 AND 10 TOGETHER WITH THE EAST 1/2 OF VACATED TRIPP AVENUE LYING ADJACENT TO SAID LOTS 1, 2, 3, 4 AND 5, AND TOGETHER WITH THE WEST 1/2 OF VACATED KEELER AVENUE LYING ADJACENT TO SAID LOTS 6, 7, 8, 9 AND 10, ALL IN BLOCK 38 INCLUDING THE VACATED ALLEY RUNNING NORTH AND SOUTH IN SAID BLOCK 38, IN FREDERICK H. BARTLETT'S CITY OF CHICAGO SUBDIVISION OF LOTS 2 AND 3 IN ASSESSOR'S SUBDIVISION OF SECTION 34, TOWNSHIP 38 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN (EXCEPT THAT PART OF THE EAST 189 FEET OF THE WEST 1/2 OF THE SOUTHWEST 1/4 OF SAID SECTION 34 AS LIES IN SAID LOT 3 AND EXCEPT RAILROAD), IN THE CITY OF CHICAGO, COUNTY OF COOK, AND STATE OF ILLINOIS.

PARCEL 3: LOTS 1, 2, 3, 4, 5, 6, 7, 8, 9 AND 10 TOGETHER WITH THE EAST 1/2 OF VACATED KEELER AVENUE LYING ADJACENT TO SAID LOTS 6, 7, 8, 9 AND 10, ALL IN BLOCK 39 INCLUDING THE VACATED ALLEY RUNNING NORTH AND SOUTH IN SAID BLOCK 39, IN FREDERICK H. BARTLETT'S CITY OF CHICAGO SUBDIVISION OF LOTS 2 AND 3 IN ASSESSOR'S SUBDIVISION OF SECTION 34, TOWNSHIP 38 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN (EXCEPT THAT PART OF THE EAST 189 FEET OF THE WEST 1/2 OF THE SOUTHWEST 1/4 OF SAID SECTION 34 AS LIES IN SAID LOT 3 AND EXCEPT RAILROAD), IN THE CITY OF CHICAGO, COUNTY OF COOK, AND STATE OF ILLINOIS.

This page is only a part of a 2016 ALTA Commitment for Title Insurance. This Commitment is not valid without the Notice; the Commitment to Issue Policy; the Commitment Conditions; Schedule A; Schedule B, Part I - Requirements; and Schedule B, Part II - Exceptions.

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AGREEMENT EXHIBIT B
DEPICTION OF THE PROJECT



FIRST AMENDMENT TO
INTERGOVERNMENTAL AGREEMENT

This First Amendment to Intergovernmental Agreement ("First Amendment") is made and entered into on or as of December 31, 2022, by and between the Chicago Park District, an Illinois body politic and corporate (the "Park District"), and the City of Chicago, an Illinois municipal corporation and home rule unit of government (the "City"), acting by and through its Department of Water Management ("DWM"). Capitalized terms set forth in this First Amendment have the meaning set forth in the Intergovernmental Agreement (as defined below), unless otherwise defined herein.

RECITALS

WHEREAS, the City and the Park District have previously entered into that certain Intergovernmental Agreement, dated on or as of July 30, 2021 ("Intergovernmental Agreement"), relating to the City's acquisition of approximately 87,500 square foot portion of the Park District's Durkin Park located at 8445 South Kolin Avenue, Chicago, Illinois 60652, as described and depicted on Exhibit A of the Intergovernmental Agreement (the "Existing Parkland") for use in support of the City's water system, specifically for the construction and operation of subsurface and surface facilities as part of the Project Elements necessary for the supply of water to Joliet (the "Project," as generally depicted on Exhibit B of the Intergovernmental Agreement); and

WHEREAS, the Park District and the City desire to extend the outside Closing Date for transfer of title to the Existing Parkland set forth in Section 4 of the Intergovernmental Agreement, from December 31, 2022 to April 19, 2023; and

WHEREAS, the Park District and the City had anticipated that the City would require Joliet to restore, at its sole cost and expense, the surface of the Existing Parkland and construct a new athletic field and support facilities thereon, which as of the Effective Date of the Intergovernmental Agreement was anticipated to be a junior-sized soccer field with accompanying necessary improvements, based on a combination of consideration of community input and the Park District's specifications, and with additional details regarding the replacement improvements to be negotiated among the City, the Park District and Joliet and included in the Lease, the Permanent Easement Agreement and/or the Water Supply Agreement; and

WHEREAS, the Park District and the City now anticipate that as part of Joliet's improvements to the Existing Parkland, instead of a junior-sized soccer field with accompanying necessary improvements, Joliet will develop a natural grass recreation space;

NOW, THEREFORE, in consideration of the mutual promises, terms and conditions set forth herein, and for the purpose of intergovernmental cooperation, the parties agree as follows:

1. Section 4 (Closing Date) of the Intergovernmental Agreement is amended and restated to read as follows:

"The closing date for transfer of title to the Existing Parkland ("Closing Date") will occur on a date mutually acceptable to the parties hereto, and on a date that will not impair or impede progress on the Project, and in no event later than July 31, 2023. The Permanent Easement Agreement, the agreement(s) for Temporary Easements and the Lease shall be approved and executed concurrently with the Closing Date."

2. Except as amended hereby, the Intergovernmental Agreement shall continue in full force and effect as the binding obligations of the City and Park District.

(Signature Page Follows)

IN WITNESS WHEREOF, the parties have executed this First Amendment as of the day and year first above written.

CITY OF CHICAGO, a municipal corporation
and home rule unit of government,

By: Andrea R.H. Cheng
Andrea R.H. Cheng, Ph.D., P.E.
Commissioner
Department of Water Management

CHICAGO PARK DISTRICT, an Illinois body politic and corporate

By: _____
Rosa Escareno
General Superintendent and CEO

ATTEST:

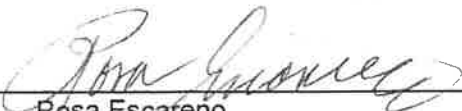
By: _____
Sarah Gelder
Secretary

IN WITNESS WHEREOF, the parties have executed this First Amendment as of the day and year first above written.

CITY OF CHICAGO, a municipal corporation
and home rule unit of government,

By: _____
Andrea R.H. Cheng, Ph.D., P.E.
Commissioner
Department of Water Management

CHICAGO PARK DISTRICT, an Illinois body politic and corporate

By:  _____
Rosa Escareno
General Superintendent and CEO

ATTEST:


By:  _____
Sarah Gelder
Secretary

EXHIBIT G – WATER STORAGE VOLUMES
(As of the Effective Date)

<u>Joliet and Subsequent Purchasers</u>	
Community	Total Storage (MG)*
Joliet	14.5
Channahon	0.0
Aqua Illinois—Oakview Avenue Water Works Service Area	0.0
Total	14.5

*MG = million gallons

EXHIBIT H – ADVISORY COUNCIL TASKS

1. Review, on an annual basis, the Capital Improvement Program of the Chicago Water System and inform the wholesale customers about scheduled capital improvements, routine operation and maintenance that may, in part, impact wholesale customers;
2. Periodically review, discuss and evaluate (a) the complete annual cost of service study for the Chicago Water System, including the rates, rate methodology, and performance of the Chicago Water System based on the information furnished by Chicago as well as (b) changes or adjustments to Chicago water rates and rate methodology; and provide recommendations related to rate setting methodology, the status of any rate adjustments, and the inputs and assumptions required for the annual cost of service study for wholesale customers;
3. Review and provide input, at least annually, on the budget components for the Chicago Water System;
4. Collaborate regarding matters affecting the water industry and customers of the Chicago Water System and supply of water in the northeastern Illinois region, including development and implementation of water policy and legislation as well as public information and education;
5. Encourage continued and ongoing day-to-day communications between operators of the Chicago Water System and operators of the wholesale customers' water systems;
6. Identify and provide input on measures to encourage the addition and retention of wholesale water customers of Chicago;
7. Review Lake Michigan water use requirements, Non-Revenue Water reduction, and the impact of potential future wholesale and other large quantity customers on the Chicago Water System;
8. Provide input regarding the quality and source of raw Lake Michigan water as well as treated Lake Michigan water provided by Chicago to the wholesale customers;
9. Provide input to Chicago to develop appropriate methods for, and to improve, operational coordination in the operation of the Chicago Water System as it delivers Lake Michigan water to the wholesale customers;
10. Review, discuss and communicate regarding potential and actual events that may result in planned curtailment or planned shutdowns of, or other impacts on, the Lake Michigan water supply;
11. While acknowledging that Chicago is subject to applicable provisions under the Municipal Code of Chicago and other procurement rules and regulations, suggest, review and provide input to Chicago on cost effectiveness and cost control initiatives in contractual services, commodities and services provided by Chicago directly related to Chicago's provision of Lake Michigan water to wholesale customers where Chicago departments provide support and services to the DWM;
12. Review and discuss operational cost effectiveness and efficiencies affecting water rates;

FOR MUNICIPAL APPROVAL

13. Conduct a review of the billing procedures, schedules and invoices from Chicago to the wholesale customers who are Members of the Advisory Council, and any changes or adjustments to the rate; and
14. Review Chicago's audited financial statements and financing plans pertaining to the Chicago Water System, as well as any costs allocated to the wholesale customers.