



Lake County Illinois

Master

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File Name: Hawthorn Woods Water Supply & Sales Agrmt.

Final Action:

Title: Joint Resolution authorizing execution of a Water Supply and Sales Agreement between Aqua Illinois, Inc., the Village of Hawthorn Woods and the County for the provision of water supply to the Hawthorn Woods / Glennshire Water System.

Notes: Water Supply & Sales Agrmt. between Aqua IL, Inc., Village of Hawthorn Woods and the County.

Sponsors:

Agenda Date:

Attachments: 2008 10 08 Aqua-County-Village Water Supply Agrmt for Committee.doc ,2008 10 08 Aqua-County-Village Water Supply Exhibits for Committee.doc.pdf

Enactment Number:

Authorizer:

Hearing Date:

Entered by: Victoria Ostrander

Effective Date:

History of Legislative File

Ver- sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	Financial and Administrative Committee	10/01/2008	Deferred				
1	Public Works and Transportation Committee	10/01/2008	Postponed				Pass
1		10/01/2008					
1	Public Works and Transportation Committee	10/08/2008	Approved and referred on to Financial and Administrative Committee				Pass
1	Financial and Administrative Committee	10/08/2008	Recommended for adoption to the Regular Agenda				Pass
1	Lake County Board	10/14/2008					

Text of Legislative File 08-0688

Title

Joint Resolution authorizing execution of a Water Supply and Sales Agreement between Aqua Illinois, Inc., the Village of Hawthorn Woods and the County for the provision of water supply to the Hawthorn Woods / Glennshire Water System.

Staff Summary

- This agreement provides the contractual mechanism by which Aqua Illinois, Inc. will sell bulk water to the County for distribution to the Hawthorn Woods / Glennshire Water System, and the ability for payment to the Village of Hawthorn Woods for their connection fees and recapture payments.
- The Hawthorn Woods / Glennshire (HWG) Water System contains 224 residences and is scheduled to have a new code compliant water system installed to replace the current 50 year old well system that was not originally constructed to public water system standards.
- Aqua provides a public water supply to other areas within the Village by agreement between Aqua and the Village, and the Village has proposed that no HWG area water storage facility be constructed and that the County obtain and purchase its bulk water supply from Aqua.
- The original 1975 County / Village contract provided that improvements to the HWG area water system shall be paid by revenues from the HWG area. To construct a new State Code - compliant PWS, the County intends to issue subordinate revenue bonds, secured by revenues generated by a surcharge (s) applied to the water bills of HWG area customers.
- The HWG area residents filed a federal lawsuit, on May 29, 2008 against the County, which challenges the County's ability and authority to impose and collect a surcharge on HWG area customers water bills to pay for the costs of the subordinate revenue bonds to be used to fund the construction and other costs of the new HWG area PWS. That lawsuit remains pending.
- This resolution authorizes execution of a Water Supply and Sales Agreement, between Aqua Illinois, Inc., the Village of Hawthorn Woods and the County for the provision of water supply to the Hawthorn Woods / Glennshire Water System.

Body

WHEREAS, the County of Lake (County) operates a public water supply system that serves a certain area within the Village of Hawthorn Woods (Village) known as the Hawthorn Woods-Glennshire water system; and

WHEREAS, Aqua Illinois, Inc. (Aqua) provides a public water supply to other areas within the Village and is willing to sell water to the County to serve customers within the Hawthorn Woods-Glennshire water system; and

WHEREAS, the County, the Village and Aqua desire to enter into a three party agreement to establish terms and conditions by which the County will construct and

maintain a new code compliant water system, Aqua will provide and sell water to the County and the Village will receive connection fees and/or recapture payments; and

WHEREAS, execution of a Water Supply and Sales Agreement must be authorized by Resolution of this County Board.

NOW, THEREFORE, BE IT RESOLVED, by this County Board of Lake County, Illinois, that the Chairman of the County Board and the Clerk of said County be and they are hereby authorized and directed to execute a Water Supply and Sales Agreement between Aqua Illinois Inc., the Village of Hawthorn Woods and the County in substantially the attached form.

DATED at WAUKEGAN, LAKE COUNTY, ILLINOIS, on this 14th day of October A.D., 2008.

WATER SUPPLY AND SALES AGREEMENT

By and Between

Aqua Illinois, Inc.

And

County of Lake

And

Village of Hawthorn Woods

Dated: as of October __, 2008

THIS WATER SUPPLY AND SALES AGREEMENT ("**Agreement**") is made this _____ day of October, 2008 by and between the Aqua Illinois, Inc. ("**Aqua**"), an Illinois corporation, the County of Lake ("**Lake County**"), an Illinois body politic and corporate, and the Village of Hawthorn Woods ("**Village**"), an Illinois municipal corporation (Aqua and Lake County and Village being collectively referred to as the "**Parties**", and each individually referred to as a "**Party**").

WHEREAS, Lake County has, pursuant to contracts entered into in 1973 and 1975 with the Village (hereinafter "1975 Contract"), operated a public water supply within the Village boundaries, in an area generally consisting of the Glennshire subdivision, and known as the Hawthorn Woods - Glennshire area ("HWG area"); and

WHEREAS, the water supply system in the HWG area was not originally constructed to public water system standards, and that HWG area water supply system is now more than 50 years old; and

WHEREAS, the HWG area water supply system has been cited for violation(s) of State drinking water standards by the Illinois Environmental Protection Agency ("IEPA"), and the Illinois Attorney General has filed an enforcement action against Lake County, in a case known as, *People ex rel. Madigan v. County of Lake*, 06 CH 2569, now pending in Lake County Circuit Court, which lawsuit seeks, among other things, the replacement of the HWG area water supply system with a State Code compliant public water system ("PWS"); and

WHEREAS, Lake County's initial attempt to site a PWS in the HWG area, which included wells and a water storage facility within the HWG area, was met with opposition and objections from some HWG area residents; and

WHEREAS, Aqua provides a public water supply to other areas within the Village by agreement between Aqua and the Village, and the Village has proposed that no HWG area water storage facility be constructed and that Lake County obtain and purchase its required bulk water supply for the HWG area, lying within Village boundaries, from Aqua; and

WHEREAS, Aqua is willing to sell water to Lake County as provided herein; and

WHEREAS, Lake County has a need for a source of water supply to serve customers within the HWG area within the Village; and

WHEREAS, as the original HWG area water supply system was not constructed to PWS standards, the 1975 Lake County / Village contract provides that improvements to the HWG area water system shall be paid by revenues from the HWG area; and, to construct a new State Code-compliant PWS, Lake County intends to issue subordinate revenue bonds, secured by revenues generated by (a) surcharge(s) applied to water bills of HWG area Customers; and

WHEREAS, since the time of the 1975 Lake County / Village contract, the Village has adopted a Village ordinance which mandates the payment to the Village of a \$2,000/residence connection fee (for water lines less than 2") ("Connection Fee") for Village residences connecting to or being supplied through the Aqua water supply system within the Village boundaries; and

WHEREAS, on or about October 18, 2004, United Land Development L.L.C. and others ("Kemper Parties") entered into a certain settlement agreement ("Settlement Agreement") with the Village. The Settlement Agreement, among other things, required the Kemper Parties to construct a certain water main along Old McHenry Road ("Water Main"), as provided for therein. The Settlement Agreement was incorporated in the stipulated dismissal of the case entitled *Village of Hawthorn Woods v. Amcore Investment Group N.A. as Trustee, et al*, 04 ED 56, consolidated with *Village of Hawthorn Woods v. Kemper Lakes Golf Course, L.L.C., et al*, 04 ED 57; and

WHEREAS, the Settlement Agreement provided that, upon completion of the Water Main, the Kemper Parties and the Village would enter into a recapture agreement ("Recapture Agreement") by which property owners being supplied from the Water Main would pay their allocable share of the cost of construction of said Water Main. The HWG area PWS will be connected to and supplied water through the Water Main which is now owned by Aqua; and

WHEREAS, there is currently pending before the Circuit Court of Lake County a Motion to Enforce Settlement Agreement, whereby the Kemper Parties are seeking to compel the Village to enter into the Recapture Agreement. There are currently Court supervised settlement

discussions taking place regarding the terms of the Recapture Agreement, and for purposes of this Water Supply and Sales Agreement, the Village agrees and stipulates that the recapture that will be charged to the HWG area (“HWG Recapture Amount” or “Recapture Amount”) to be included as a part of County-issued subordinate revenue bonds will be \$96,000; and

WHEREAS, the HWG area contains 224 residences to be served and this Agreement is intended to provide the mechanism by which the Connection Fees and Recapture Amount are, included as a project expense, and said Connection Fees and Recapture Amount are paid by inclusion in the County’s subordinate revenue bonds to be issued, and if issued, for this project and paid over to the Village as otherwise provided per this agreement; and

WHEREAS, all parties acknowledge and agree that said Village connection fees and HWG Recapture Amount will not be used to pay for any of the construction costs and other fees and costs attributable to the new HWG PWS, except as may be otherwise provided herein; and

WHEREAS, HWG area residents did, on May 29, 2008, file a lawsuit against the County, in the United States District Court, Northern District of Illinois, Eastern Division, entitled Donovan, et al. v. County of Lake, 08 CV 3098, which challenges the County’s ability and authority to impose and collect a surcharge on HWG area Customers water bills to pay for the costs of the subordinate revenue bonds to be used to fund the construction and other costs of the new HWG area PWS, which lawsuit remains pending.

NOW, THEREFORE, in consideration of the mutual promises and covenants set forth below, the Parties hereby agree as follows:

1. **Definitions.**

The following terms when used in this Agreement shall, unless the context clearly establishes otherwise, have the following meanings:

“**Applicable Law**” means all federal, State, and local statutes, laws, ordinances, regulations, rules, codes and orders applicable to the operations, facilities and activities of Aqua, Lake County, and Village.

“**Aqua System**” means the water supply system along Old McHenry Road owned or operated by Aqua with IEPA facility PWS IL0975040 which will supply the HWG Area PWS. The Aqua System includes the sources, various water treatment, pumping, and conveyance facilities owned or operated by Aqua.

“**Lake County System**” means that portion of the Lake County’s water supply system located within the HWG area, within the municipal boundaries of the Village, in Lake County, Illinois, on the Execution Date of this Agreement that is intended to become interconnected by pipeline with the Aqua System under the terms of this Agreement.

“**Effective Date**” means the date on which Aqua commences delivery of water to Lake County pursuant to this Agreement.

“**Execution Date**” means the date on which all Parties have executed this Agreement, as set forth in the first paragraph of this Agreement.

“**Change in Law**” means any of the following acts, events, or circumstances to the extent that compliance therewith materially increases the cost of performing, or the scope of, a Party’s obligations hereunder:

(1) the adoption, amendment, promulgation, issuance, modification, repeal or written change in administrative or judicial interpretation of any Applicable Law on or after the Execution Date;

(2) the order or judgment of any Governmental Body issued on or after the Execution Date (unless such order or judgment is issued to enforce compliance with Applicable Law which was effective as of the Execution Date) to the extent that such order or judgment is not the result of willful or negligent action, error or omission of the Party seeking relief; provided, however, that the contesting in good faith or the failure in good faith to contest any such order or judgment shall not constitute or be construed as such a willful or negligent action, error or omission; or

(3) the suspension, termination, or interruption of any Governmental Approval, a failure to obtain or unusual delay in obtaining any Governmental Approval, or the imposition of a term, condition or requirement which is more stringent or burdensome than the requirements in effect as of the Execution Date, to the extent that such occurrence is not the result of willful or negligent action, error or omission of the Party seeking relief or the failure of the party seeking relief to diligently submit and prosecute Governmental Approval Applications; provided, however, that the contesting in good faith or the failure in good faith to contest any such order or judgment shall not constitute or be construed as such a willful or negligent action, error or omission.

Notwithstanding any of the foregoing, any ruling, court order, or Consent Order entered in the currently pending case of *People ex rel. Madigan v. County of Lake*, 06 CH 2569, is excluded from this definition and shall not be considered a “Change in Law”.

Further, notwithstanding any of the foregoing, any ruling, court order, or Consent Order entered in the currently pending case of *Donovan et al v. County of Lake*, 08 CV 3098 in the U.S. District Court, is excluded from this definition and shall not be considered a “Change in Law”.

“**Drinking Water Requirements**” means all requirements (including water quality, monitoring, reporting, recordkeeping, notification and other requirements) imposed under the Federal Safe Drinking Water Act, 42 U.S.C. §300f *et seq.*, and the Illinois Safe Drinking Water Act, and the regulations adopted pursuant thereto.

“**Drinking Water Standards**” means the primary and secondary maximum contaminant level standards established under the Federal Safe Drinking Water Act, 42 U.S.C. §300f *et seq.*, and the Illinois Safe Drinking Water Act, and the regulations adopted pursuant thereto.

“**Easement**” means the permanent easement obtained from the Village by the County and attached as **Exhibit E**.

“**Existing Customer**” means any of the 224 residences which are served by the current HWG area PWS, as depicted on **Exhibit A**.

“**Governmental Approval**” means any permit, license, authorization, consent, approval, waiver, exception, variance, order, or exemption issued by any Governmental Body pursuant to an Applicable Law.

“**Governmental Body**” means any agency of the United States Government, state or other governmental entity exercising executive, legislative, judicial, regulatory or administrative functions of a government with jurisdiction over the operations, facilities and activities of Aqua, Lake County, and Village.

“**gpd**” means gallons per day.

“**gpm**” means gallons per minute

“**HWG area**” means the territory within the Village served by the Hawthorn Woods – Glennshire public water supply system, as depicted on the map thereof attached as **Exhibit A**.

“**ICC**” means the Illinois Commerce Commission.

“**IEPA**” means the Illinois Environmental Protection Agency, or any successor agency.

“**Interconnection Facilities**” means a meter, meter pit, and all necessary appurtenances at the Points of Delivery as shown on **Exhibits B1** and **B2**.

"**mgd**" means million gallons per day.

"**Point of Delivery**" means the location of interconnection between the water supply systems of Aqua and Lake County as shown on **Exhibits B1, B2, and B3** attached hereto and made a part hereof. The Points of Delivery may be modified by mutual agreement of Aqua and Lake County.

“**Potential Customer**” means any residence which is located within the HWG Area, but is not an Existing Customer, but may in the future be served by the new HWG area PWS, but was not considered or was not able to be served at the time of execution of this Agreement.

“**Prudent Industry Practice**” means the methods, techniques, standards and practices which, at the time they are to be employed and in light of the circumstances known or reasonably believed to exist at such time, are generally as reasonably prudent operation, maintenance, repair, replacement and management practices followed by the municipal water supply and treatment industry in the northeastern region of the United States.

“**PWS**” means public water system

“**State**” means State of Illinois.

"**TG**" means one thousand (1000) gallons.

“**Uncontrollable Circumstance**” means any act, event, or condition beyond the reasonable control of a Party which materially affects the ability of that Party to perform any obligation under this Agreement (except payment obligations), including (i) a Change of Law, (ii) earthquake, flood, hurricanes, or other natural disaster, (iii) acts of God, (iv) war, civil insurrection, acts of terrorism, or acts of any public enemy; (v) an act of eminent domain or taking, (vi) catastrophic equipment failure or contamination of water sources which are not the result of the willful or negligent actions or omissions by the Party claiming relief; or (viii) failure or interference with normal sources of supply, accident, or other circumstances beyond a party’s reasonable control. “Uncontrollable Circumstances” does *not* include: (1) any act, event or circumstance that would not have occurred if the affected Party had complied with its obligations under the Agreement; (2) changes in interest rates, inflation rates, wage rates, insurance costs, taxes, commodity

prices or other general economic conditions, except as otherwise specifically provided in this Agreement; (3) changes in the financial condition of a Party affecting the ability to perform its obligations; (4) any ruling, court order, or Consent Order entered in the currently pending case of *People ex rel. Madigan v. County of Lake*, 06 CH 2569; (5) any ruling, court order, or Consent Order entered in the currently pending case of *Donovan et al v. County of Lake*, 08 CV 3098 in the U.S. District Court.

2. Sale of and Purchase of Water and Term.

(a) *Aqua to Sell Water.* Aqua agrees to sell water to Lake County at the Points of Delivery and upon terms and conditions hereinafter provided. Lake County agrees to purchase water at the following rate:

(1) Usage Charges

a. Upon execution of the Agreement, the rate charged for water will be \$1.80 per TG (the “Usage Charge”) for Year 1.

b. Each year thereafter, the Usage Charge will increase by \$0.10 per TG until the Usage Charge charged under this Agreement equals \$2.4329 per TG. Thereafter, the Usage Charge shall change from time to time as approved by the ICC. If the ICC should approve a new Usage Charge for Water Service - Municipalities for Resale Service during the eight (8) years the rate increases annually, then the rates shown in the following table will increase by the percentage increase approved by the ICC.

<u>Year</u>	<u>Usage Charge per 1000 Gallons</u>
1	\$1.80
2	\$1.90
3	\$2.00
4	\$2.10
5	\$2.20
6	\$2.30
7	\$2.40
8	\$2.4329 or current charge

(2) **Customer Charge.** In addition to the Usage Charge, Lake County shall pay a Customer Charge for each of the meters located within the Interconnection Facilities, currently set at \$15.00 per meter per month, which Customer Charge is subject to change from time to time as approved by the ICC.

(3) **ICC Approval.** This Agreement, the Usage Charge, and Customer Charge are subject to ICC approval.

(b) ***Limit On Obligation of Aqua to Supply Water.*** Aqua shall supply a maximum day demand of 90,000 gpd for domestic use. In addition, the Aqua water distribution system is designed to deliver 1750 gpm of fire flows for 2 hours duration during a fire event. The Aqua water distribution system is designed to deliver operating pressure within the range of 60 psi to 70 psi at the Interconnection Facilities during normal operations. Aqua shall not be obligated, but shall make its best efforts, to supply a maximum day volume of water in excess of 90,000 gpd, if necessary. Furthermore, Aqua shall not restrict flow by installing any flow control devices at the Points of Delivery or any point downstream.

(c) ***Aqua Delivery of Water at Points of Delivery.*** Lake County shall construct, install and complete the Interconnection Facilities. Lake County shall transfer ownership of the Easement and tapping sleeves and valves at the three Points of Delivery to Aqua as set forth in section 3.

(d) ***Use of Purchased Water.*** The water purchased by Lake County shall be used solely for the purpose of supplying Existing and Potential Customers within the HWG area, in the Village boundaries, at the Execution Date and may not be resold for use in other portions of Lake County's utility system, unless otherwise agreed to by Aqua, the Village, and Lake County in writing.

(e) ***Term.*** The term of this Agreement shall be for a period of 20 years from the Effective Date (the "**Term**"). The Term of this Agreement shall automatically renew for up to two (2) successive periods of five (5) years each unless any Party provides the other Parties with written

notice of its intention to terminate the Agreement at least three (3) years prior to the expiration of the Term.

3. **Construction, Ownership and Maintenance of Facilities.**

(a) ***Points of Delivery.*** Lake County shall provide or arrange for the design, construction, and completion of a PWS which will consist of an 8 inch diameter water transmission main, a 4 inch diameter water distribution main, Interconnection Facilities, the Points of Delivery, and the Easement as laid out in this agreement.

(b) ***Meters.*** As laid out in section 3(d) Lake County shall dedicate and transfer ownership of the 2 meters located within the Interconnection Facilities, at which time Aqua will be responsible for maintaining said meters, and installing appropriate meter reading devices at the meter pit locations.

(c) ***Maintenance of Facilities.*** Aqua shall operate, inspect, maintain, and repair the Aqua System, to include the tapping sleeves and valves at the three Points of Delivery in accordance with Prudent Industry Practice and in compliance with all Applicable Laws and Governmental Approvals.

(d) ***Transfer of Ownership.*** On the date the Interconnection Facilities are placed in service and bulk water is being delivered by Aqua to Lake County for distribution through the new HWG area PWS, Lake County shall transfer ownership of the tapping sleeves and valves at the Points of Delivery to Aqua, by a duly executed Bill of Sale. At this time, Aqua shall also assume all obligations of Grantee under the Easement.

(e) ***No Title.*** This Agreement shall not create or vest in Lake County any ownership interest in, or title to, any part of the facilities installed, owned, operated and maintained by Aqua.

(f) ***No Extension of Rights.*** Nothing in this Agreement, whether explicit or implicit, express or implied, or by operation of law, shall give rise or create any additional right, argument, or entitlement by Lake County over the Aqua System, including any rights of condemnation pursuant to Applicable Law.

(g) **Village Connection Fees and Village (Kemper Parties) Recapture Amount.** The Village represents that for each of the 224 residences (Existing Customers) in the HWG area to be served by and connected to the new PWS through the Aqua Water Main, pursuant to Village ordinance, there is due and owed to the Village from the HWG area resident(s) a Connection Fee of \$2,000 per residence, for a total sum of \$448,000. In addition, the Village represents that, pursuant to the Recapture Agreement to be entered into between the Village and the Kemper Parties, the HWG Recapture Amount that is \$96,000. The Village agrees that the County is hereby authorized and directed, to collect the HWG area Village Connection Fees, by inclusion of the \$448,000 connection fees sum, and to collect the HWG Recapture Amount of \$96,000, in the subordinate revenue bonds to be issued, and if issued, by the County for the HWG area PWS construction project, which subordinate revenue bonds shall be paid for by a surcharge imposed by the County on the water bills of the HWG PWS customers.

(1) ***Payment by the County to the Village.*** The Village agrees that the County is not obligated to pay and is not responsible for the payment of HWG area Village Connection Fees, and is not obligated to pay and is not responsible for the payment to the Village of the Recapture Amount, unless and until thirty (30) days following a final and non-appealable judgment is entered in favor of the County in the pending *Donovan, et al. v. County of Lake*, 08 CV 3098, case, and unless and until not less than thirty (30) days following receipt by the County of the HWG PWS subordinate revenue bonds proceeds. The Village and County agree that to any extent that the costs attributable to preparation for and issuance of said subordinate revenue bonds are not paid for by HWG area Customers, that the Village prorate share (as the Village (\$448,000 + \$96,000 sum is to total bond amount) of said bond issuance costs shall be deducted from any payment to the Village of Village connections fees and Recapture Amount by the County from subordinate revenue bond proceeds pursuant to this sub-section 3(g)(1).

(i) ***Funding Mechanism for new HWG PWS.*** The Village acknowledges and agrees that the County is authorized, under the terms of the 1975 Contract between the Village and County, to charge and collect from HWG area Customers, for the proposed new Code-compliant HWG PWS construction and related costs, by the proposed subordinate revenue bonds, secured by a surcharge on the water bills to HWG area Customers.

(ii) ***Indemnification and Hold Harmless.*** The Village agrees to indemnify and save harmless the County against all claims, objections, causes of action, suits, damages, and demands (collectively, “***Claims***”), and to defend the County against such Claims (including all costs, charges, expenses, and attorneys’ fees relating to such defense) that may arise out of or in connection with the actions or inactions of the Village or its authorized agents, servants, employees, or officers in relation to the imposition of or collection of Village connection fees or recapture payments in or from HWG area residents (Customers) relating to the subject new PWS.

4. **Billing Procedures.**

(a) ***Meter Reading and Invoicing.*** Each month Aqua shall read the meters contained within the Interconnection Facilities and invoice Lake County for the Usage Charge, Customer Charge and any other charges as delineated on the attached **Exhibit C (ICC Schedule of Rates for Water Service)** pursuant to Aqua’s tariff which charges are subject to change from time to time as approved by the ICC.

(b) ***Due Date and Payment.*** Lake County shall make payment within thirty (30) days after receipt of the invoice (the “***Due Date***”). All payment and past due charges shall be governed by the terms of the Illinois Local Government Prompt Payment Act, 50 ILCS 505/1 et seq.

(c) ***Disputed Sums.*** If Lake County disputes any amount set forth in an invoice presented by Aqua, Lake County must, on or before the Due Date: (i) pay the invoice, and (ii) notify Aqua in writing of the basis for any such the dispute. Following the resolution of any such dispute, if the Lake County owes any amount to Aqua, such amount shall bear interest as provided in the Illinois Local Government Prompt Payment Act, 50 ILCS 505/8, from the original Due Date; and if Aqua owes any reimbursement of any amounts paid by Lake County, such amounts shall be paid with interest at the 50 ILCS 505/8 rate accruing from the date on which the Lake County made payment of such amounts.

(d) ***Disputes Regarding Meter Accuracy.*** If any dispute arises in which any Party disputes the accuracy of the meter, a meter test shall be performed by a qualified firm acceptable to the Parties and an authorized representative of the Parties shall have the right to be present for

such meter test. If the meter test determines that the meter is measuring flow within the accuracy limits set forth in applicable ICC regulations, the Party disputing the accuracy of the meter shall pay for the meter test. If the meter test determines that the meter is not measuring flow within the accuracy limits set forth in applicable ICC regulations, (i) the meter shall be replaced or recalibrated at the cost of Aqua, (ii) any disputed amounts set forth in invoices based upon the readings of such meter shall be adjusted by an amount to reflect the accuracy error value shown in the meter test, and (iii) Aqua shall pay for the cost of the meter test.

5. **Meter Testing and Calibration.**

(a) The Interconnection Facilities' meters shall be tested and calibrated annually by and at the cost of Aqua according to accepted industry standards and Prudent Industry Practice. An authorized representative of Lake County shall have the right to be present when meter testing is performed.

(b) Lake County may request that Aqua test the Interconnection Facilities' meters more frequently but any such tests shall be performed at the sole expense of Lake County.

6. **Water Quality.**

(a) The water delivered by Aqua shall meet all applicable Drinking Water Standards at each Point of Delivery and shall comply with all applicable Drinking Water Requirements.

(b) Aqua shall not be responsible for any contamination or degradation in the quality of the water that occurs after each Point of Delivery. Upon written request, Aqua shall provide Lake County with reports of any water quality test results for water samples taken at each Point of Delivery and, upon written request, with seven calendar days prior notice, Lake County shall be entitled to take split samples with Aqua at each Point of Delivery.

(c) Upon seven calendar days' written notice or request, Aqua shall provide Lake County access to the meter pit in order to take its own water samples at each Point of Delivery.

(d) The Parties shall meet and discuss any planned changes in treatment processes or chemicals, prior to making such changes, and determine if the planned changes will have any adverse impact on the other Party.

7. **Planned Service Interruptions.**

Planned service interruptions that would impact Lake County's provision of a potable water supply to HWG area residents, may be required in the course of operation, repair or maintenance of the Aqua System. All parties acknowledge that the HWG area PWS does not possess any water storage facilities, and Aqua shall use its best efforts and apply Prudent Industry Practice to minimize the number, duration and impact of such occurrences, and limit any such service interruptions to a maximum twenty-four (24) hour service interruption. Aqua shall provide Lake County with 72 hours advance notice of any planned service interruptions.

8. **Responsibility of Parties.**

To the extent authorized by law, each Party shall be solely responsible to provide water service to customers of its respective system at adequate flow rates and pressures and neither Party shall have any responsibility to the other Party, or any customer of the other Party's water system, for any costs, expenses, damages, liability, loss, claims, suits, or proceedings of any nature arising out of alleged inadequate water pressure or alleged inadequate flow rate in the other Party's water system.

9. **Uncontrollable Circumstances and Change in Law.**

(a) *Uncontrollable Circumstances.* If by reason of Uncontrollable Circumstances, any Party shall be rendered unable, wholly or in part, to satisfy its obligations under this Agreement, then those obligations, to the extent affected by such Uncontrollable Circumstances, shall be suspended or reduced during the continuance of the inability to perform hereunder. Such Party shall be excused from performance only during the period and to the extent that the affected Party, acting with all due diligence and dispatch, is prevented from performing by the Uncontrollable Circumstance. The Party suffering such Uncontrollable Circumstances shall provide notice by telephone to the other Parties at the earliest possible time, and shall thereafter provide a written description of such Uncontrollable Circumstance event, and

the actions being taken to mitigate the effect of such Uncontrollable Circumstance, within three (3) working days after the occurrence of such Uncontrollable Circumstance event. Notwithstanding the foregoing, however, to the extent an Uncontrollable Circumstance similarly affects or applies to the water supply obligations of Aqua to others, Aqua shall be excused from performance hereunder only to the same extent and to the same measure as Aqua is unable to perform its obligations to any other public water supply purchaser.

(b) *Duty to Mitigate.* The Party experiencing an Uncontrollable Circumstance event shall use its best efforts to remove or overcome such Uncontrollable Circumstance as soon as reasonably possible.

(c) *Drought Contingency Plan.* Lake County has a Water Restriction Ordinance, to regulate water usage from public water supply during times of water shortages or drought. (A copy of the current Ordinance is attached as **Exhibit D.**) In the event of drought, Lake County agrees to impose drought restrictions that are no less stringent than those imposed by Lake County elsewhere within the county corporate limits. To permit Lake County Water Restriction Ordinance enforcement in the HWG area, the Village agrees to adopt the County Water Restriction Ordinance by reference, and authorize Lake County to enforce said Ordinance within the HWG area of the Village. To the extent that Aqua or the Village have more stringent water restriction or drought water supply regulations or ordinances, any such more stringent regulations or ordinances shall be enforced by either Aqua or the Village.

10. **Events of Default and Remedies.**

(a) *Lake County Event of Default.* The following events shall constitute a Lake County Event of Default under this Agreement:

(1) Lake County's failure, neglect, or refusal to pay any payment due to the Aqua under this Agreement, which continues for thirty (30) days after written notice to Lake County.

(2) Lake County's failure to keep and perform any of Lake County's obligations under this Agreement, which failure or breach continues for thirty (30) days after

written notice thereof by Aqua to Lake County, unless the nature of the failure or breach is such that more than 30 days is required for its cure and Lake County has commenced such cure within such 30 day period and thereafter diligently prosecutes the same to completion.

(b) ***Remedies for Lake County Event of Default.***

(1) If a Lake County Event of Default shall occur, Aqua shall have the right to seek specific performance or any other remedy at law or equity.

(2) If a Lake County Event of Default shall occur, if such default shall not be cured as provided herein, Aqua shall have the right to terminate this Agreement. No act by Aqua other than giving express notice to Lake County shall terminate this Agreement.

(c) ***Aqua Event of Default.*** The following events shall constitute an Aqua Event of Default under this Agreement:

(1) Aqua's failure to keep and perform any of Aqua's obligations under this Agreement, which failure or breach continues for thirty (30) days after written notice thereof by Lake County to Aqua, unless the nature of the failure or breach is such that more than 30 days is required for its cure and Aqua has commenced such cure within such 30 day period and thereafter diligently prosecutes the same to completion.

(d) ***Remedies for Aqua Event of Default.***

(1) If an Aqua Event of Default shall occur, Lake County shall have the right to seek specific performance or any other remedy at law or equity.

(2) If an Aqua Event of Default shall occur, and if such default shall not be cured as provided herein, Lake County shall have the right to terminate this Agreement. No act by Lake County other than giving express notice to Aqua shall terminate this Agreement.

(e) Neither Party shall initiate a remedy of any Event of Default without first giving at least thirty (30) days prior written notice thereof to the other Parties.

11. **Dispute Resolution.**

(a) *Objective.* It is the stated intent of the Parties to seek to amicably resolve any disputes under the Agreement, where possible, through negotiation between the Parties.

(1) *Venue for Disputes.* The venue for any and all disputes, not compromised or settled under Section 11(a) above, shall be in the Circuit Court of Lake County, Illinois.

12. **Assignment; Successors.**

This Agreement may be assigned by any Party without the prior written consent of the other Parties, except that any assignment by Aqua, or any successor, as the purveyor or supplier of a potable public drinking water supply shall only be to either an Illinois unit of local government authorized and permitted to provide public water supply, or to an Illinois public utility authorized and permitted to provide public water supply in Illinois by the ICC and IEPA.. This Agreement shall inure to the benefit of and be binding upon the Parties hereto and their respective successors and permitted assigns.

13. **Village Hall Water Service.**

Village Hall water service has been provided in the past as one of the 224 Existing Customers. The Village agrees that upon completion of construction of a new PWS serving the HWG Area, the Village Hall shall no longer be connected to, or be a part of, the HWG Area PWS. The Village and Aqua agree that the Village shall make a direct connection to the Aqua System and that the Village Hall shall receive public water service and supply from the Aqua System, and not from the HWG Area PWS. Therefore the Village will not be responsible for any costs regarding the new HWG Area PWS.

14. **Notices.**

All notices, demands, requests or other communications required by this Agreement (collectively “**Notices**”) shall be in writing and given as follows by: (i) personal delivery; (ii) established overnight commercial courier with delivery costs prepaid or duly charged; (iii) electronic transmittal via telecopy machine (provided that the receiving Party provides a written

acknowledgement by telecopy or other means of Notice); or (iv) certified mail, return receipt requested, postage prepaid. All Notices shall be addressed to the applicable addresses and telecopy machine telephone numbers set forth below, or to any other address or addressee as a Party entitled to receive Notices shall designate, from time to time, by Notice given to the other Parties in the manner provided in this Section. Service of any such notice by express service or certified mail shall be deemed complete the second business day after mailing. Service of any such Notice by telecopy machine shall be deemed complete upon confirmation that the transmission was successful. Service of such notice by personal delivery shall be deemed complete upon tender to an employee of the Party at the office of the person identified to receive such Notice.

If to Aqua: Terry J. Rakocy, President
Aqua Illinois, Inc.
1000 S. Schuyler Avenue
Kankakee, IL 60901
Fax (815) 935-8809.

For Uncontrollable Circumstances, contact Aqua at (877) 987-2782.

If to Lake County:
Peter E. Kolb, P.E., Director
Lake County Public Works Department
1650 Winchester Road
Libertyville, IL 60048
Fax (847) 377-7173

For Uncontrollable Circumstances, contact LCPW at (847)377-7500.

If to Village of Hawthorn Woods:
James E. Bassett, Village Administrator
Village of Hawthorn Woods
2 Lagoon Drive
Hawthorn Woods, IL 60083

Fax (847) 438-1459

For Uncontrollable Circumstance, contact the Village Administrator at (847)438-5500.

15. **Entire Agreement.**

This Agreement, including all Exhibits attached hereto, constitutes the entire understanding between the Parties respecting the subject matter hereof, and the Parties shall not be bound by any agreements, understandings or conditions, whether written or oral, respecting the subject matter hereof.

16. **Amendment.**

This Agreement may be amended only by a written instrument signed by the Parties.

17. **Governing Law.**

This Agreement shall be governed by and interpreted in accordance with the laws of the State of Illinois.

18. **Execution in Counterparts.**

This Agreement may be executed in any number of counterparts, all of which taken together shall constitute one and the same instrument.

NOW THEREFORE, intending to be legally bound hereby, the Parties hereto have set their hand and seal the day and date first above written.

Witness

Aqua Illinois, Inc.

By: _____
Name: Terry J. Rakocy
Title: President

Witness

County of Lake

By: _____
Name:
Title:

Witness

Village of Hawthorn Woods

By: _____
Name:
Title:

EXHIBIT A

HWG area map

EXHIBIT B1

Circle Drive Point of Delivery map

EXHIBIT B2

Lagoon Drive Point of Delivery map

EXHIBIT B3

Old McHenry Road Point of Delivery map

EXHIBIT C

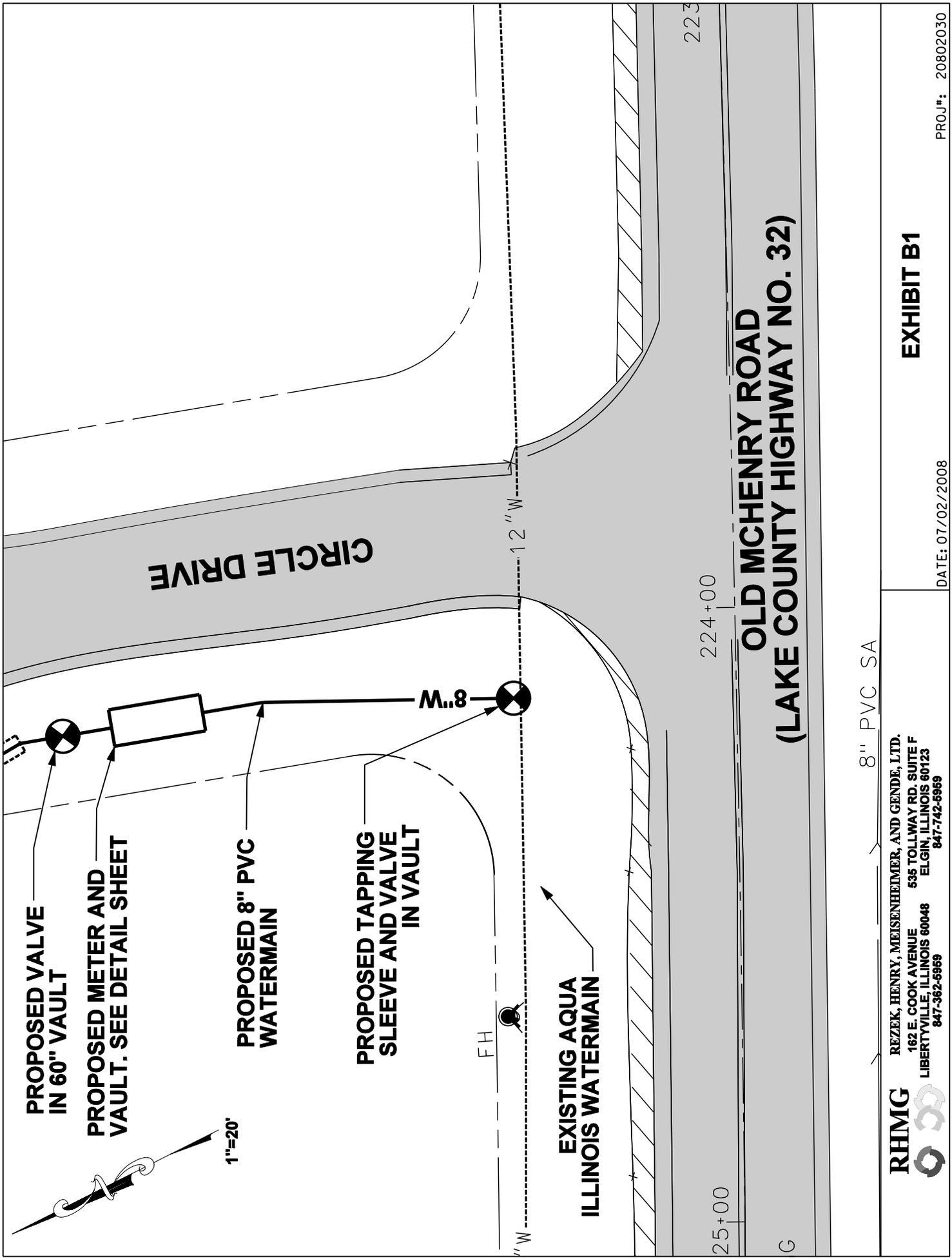
ICC Authorized Schedule of Rates for Water Service

EXHIBIT D

Lake County Water Restriction Ordinance

EXHIBIT E

Village Hall Easement



PROPOSED VALVE
IN 60" VAULT

PROPOSED METER AND
VAULT. SEE DETAIL SHEET

1"=20'

PROPOSED 8" PVC
WATERMAIN

PROPOSED TAPPING
SLEEVE AND VALVE
IN VAULT

M..8

EXISTING AQUA
ILLINOIS WATERMAIN

CIRCLE DRIVE

OLD MCHENRY ROAD
(LAKE COUNTY HIGHWAY NO. 32)

8" PVC SA

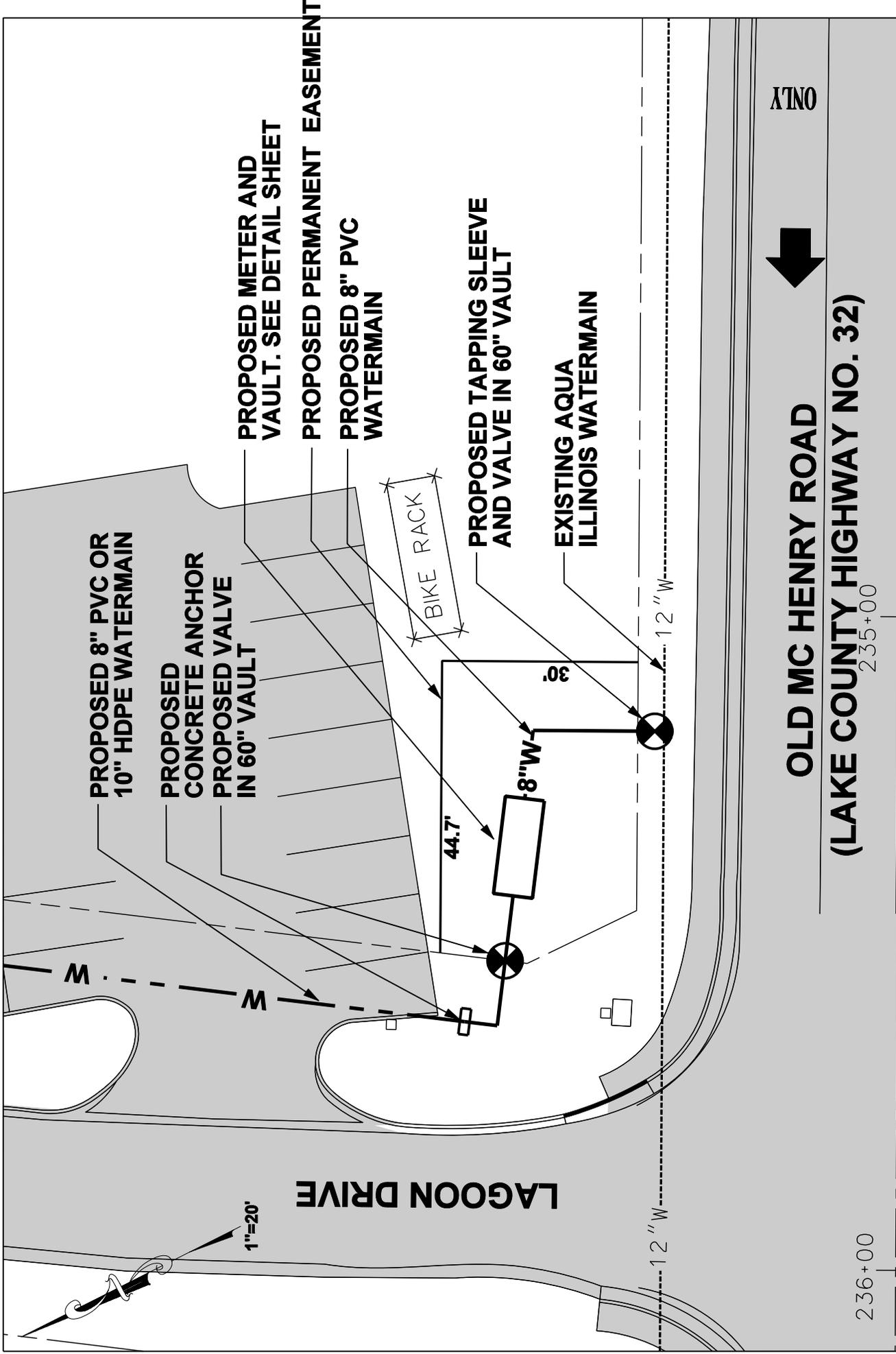


RHMG
REZEK, HENRY, MEISENHEIMER, AND GENDE, LTD.
162 E. COOK AVENUE
LIBERTYVILLE, ILLINOIS 60048
847-362-5959

EXHIBIT B1

DATE: 07/02/2008

PROJ#: 20802030



PROPOSED 8" PVC OR 10" HDPE WATERMAIN

PROPOSED CONCRETE ANCHOR

PROPOSED VALVE IN 60" VAULT

PROPOSED METER AND VAULT. SEE DETAIL SHEET

PROPOSED PERMANENT EASEMENT

PROPOSED 8" PVC WATERMAIN

BIKE RACK

PROPOSED TAPPING SLEEVE AND VALVE IN 60" VAULT

EXISTING AQUA ILLINOIS WATERMAIN

M

M

LAGOON DRIVE

1"=20'

44.7'

8"W

12" W

12" W

ONLY



OLD MC HENRY ROAD

(LAKE COUNTY HIGHWAY NO. 32)

236+00

235+00

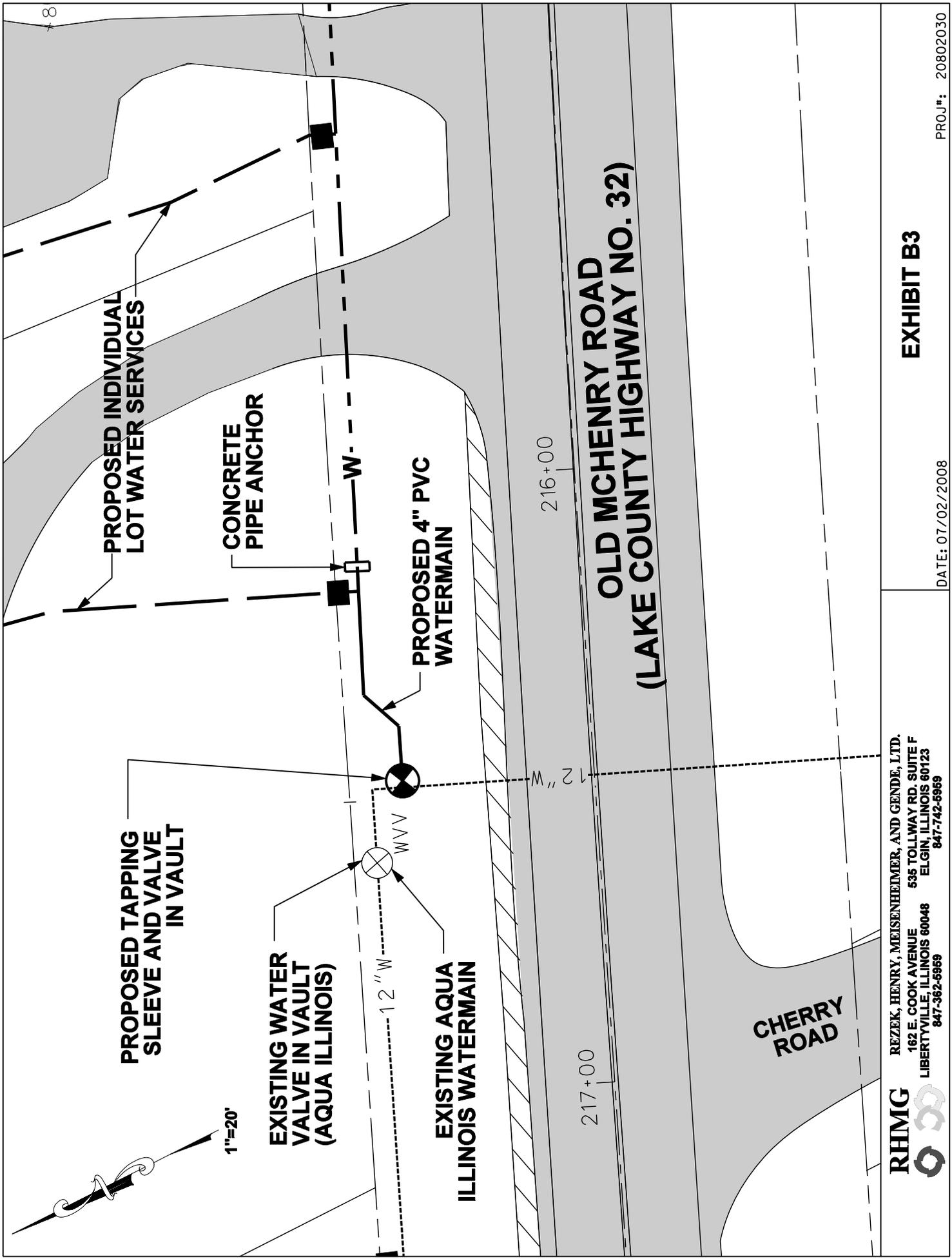


RHMG
 REZEK, HENRY, MEISENHEIMER, AND GENDE, L.T.D.
 162 E. COOK AVENUE
 LIBERTYVILLE, ILLINOIS 60048
 847-362-5959

EXHIBIT B2

DATE: 07/02/2008

PROJ#: 20802030



RHM
 REZEK, HENRY, MEISENHEIMER, AND GENDE, LTD.
 162 E. COOK AVENUE
 LIBERTYVILLE, ILLINOIS 60048
 847-362-5959

EXHIBIT B3

DATE: 07/02/2008

PROJ#: 20802030

AQUA ILLINOIS, INC.
LAKE COUNTY – HAWTHORN WOODS
LAKE COUNTY, ILLINOIS

ILL. C.C. No. 47
Section No. 10
Second Revised Sheet No. 1
Canceling First Revised Sheet No. 1

AQUA ILLINOIS, INC.
SCHEDULE OF RATES
FOR
WATER SERVICE

Applying to the following territory:

- * Village of Hawthorn Woods, Kemper Lakes Development Area, and
- * Kemper 6 & 7 Parcels in Lake County, Illinois.

* Indicates changes in tariff

Filed in Compliance with Order of
Illinois Commerce Commission in Docket No. 06-0795

Issued: July 3, 2007

Effective: July 11, 2007

Issued By: Terry J. Rakocy, President

1000 S. Schuyler Ave., Kankakee, IL 60901

AQUA ILLINOIS, INC.
LAKE COUNTY – HAWTHORN WOODS
LAKE COUNTY, ILLINOIS

ILL. C.C. No. 47
Section No. 10
Fourth Revised Sheet No. 2
Canceling Second Revised Sheet No. 2

Applies To: Village of Hawthorn Woods, Kemper Lakes Development Area, and
Kemper 6 & 7 Parcels in Lake County, Illinois.

WATER SERVICE

RATES

All water service to residential, commercial, public and industrial customers shall be metered. The service line and meter for a Customer shall be installed in accordance with the Rules, Regulations and Conditions of Service referenced below; provided, however, that, for an outdoor irrigation system installed on a residential customer's premises ("Irrigation System"), the Company will, upon request and at the residential customer's expense, install a separate service line and meter ("Irrigation Service/Meter") for the Irrigation System. The rates for water service shall, in addition to other applicable charges, consist of a monthly Water Customer Charge, monthly Public Fire Protection Service Charge and a Water Usage Charge based on the amount of water used.

Water Customer Charge

The Water Customer Charge for each metered water account shall be \$15.00 per month; and when a separate Irrigation Service Meter is installed, an additional Water Customer Charge of \$2.00 per month will apply for the Irrigation Service/Meter account.

Water Usage Charge

* For all water use (including water for an Irrigation System,) the Customer will pay \$4.24 per each 1,000 gallons of water used.

Public Fire Protection Charge

* Each customer will pay a monthly charge for Public Fire Protection of \$7.50 per month.

* Indicates changes to tariff

Filed in Compliance with Order of Illinois Commerce Commission
in Docket No. 07-0620/07-0621/08-0067 (Consolidated)

Issued: August 28, 2008

Effective: September 5, 2008

Issued By: Terry J. Rakocy, President
1000 S. Schuyler Ave., Kankakee, IL 60901

Applies To: * Village of Hawthorn Woods, Kemper Lakes Development Area and
* Kemper 6 & 7 Parcels in Lake County, Illinois.

BILLING TERMS

Billings will be made on the basis of the above rates and are due and payable at the stated rates on or before the twenty-first (21st) day following the date of the postmark of the bill, or, if said twenty-first (21st) day falls on a Saturday, Sunday, or legal holiday, then on the first day thereafter not a Saturday, Sunday, or legal holiday; all bills unpaid after said twenty-first (21st) day shall be increased by one and one half percent (1-1/2%) per month, including amounts previously past due. At the option of the Company, bills may be rendered monthly, bimonthly or quarterly.

0.10% GROSS REVENUE TAX

Section 36(b) of "An Act Concerning Public Utilities," as amended, authorizes a utility to recover from its customers its liabilities to the State of Illinois for the Gross Revenue Tax imposed by Section 7a of "An Act Concerning Public Utilities," as amended. Pursuant to Section 36(b), the Company will charge an Additional Charge for the Gross Revenue Tax equal to 0.10% of all billings under this rate schedule except for (a) this Additional Charge for the Gross Revenue Tax, (b) the Additional Charge for any Municipal Utility Tax, and (c) any other billings and billing items excluded from the base of the Gross Revenue Tax.

RULES AND REGULATIONS

Reference is hereby made to the Rules, Regulations and Conditions of Service of the Company as stated in Section No. 1 of ILL C. C. No. 47, on file with the Illinois Commerce Commission from time to time. The Schedule of Rates for Water Service and other charges should be read together with and is hereby made subject to said Rules, Regulations and Conditions of Service. An applicant for water service in the Village of Hawthorn Woods should be aware that the Village approved Ordinance #1092-04 that requires all fees, permits, or authorization required by the Village relating to applications for water service to be paid and/or received prior to requesting water service from the Company. An applicant for water service in the Kemper Lakes Development Area should be aware that pursuant to Village of Hawthorn Woods Resolution No. 10-18-04-3 and the associated court order, certain fees, permits, or authorizations may be required to be paid to and/or received by the Village prior to requesting

- * water service from the Company. An applicant for water service in the Kemper 6 & 7 Parcels
- * should be aware that pursuant to a Village of Hawthorn Woods Agreement, certain fees,
- * permits or authorizations may be required to be paid to and/or received by the Village prior to
- * requesting water service from the Company.

* Indicates changes to tariff

Filed in Compliance with Order of
Illinois Commerce Commission in Docket No. 06-0795

Issued: July 3, 2007

Effective: July 11, 2007

Issued By: Terry J. Rakocy, President

1000 S. Schuyler Ave., Kankakee, IL 60901

AQUA ILLINOIS, INC.
LAKE COUNTY - HAWTHORN WOODS
LAKE COUNTY, ILLINOIS

ILL. C.C. No. 47
Section No. 10
Third Revised Sheet No. 4
Canceling Second Revised Sheet No. 4

Applies To: * Village of Hawthorn Woods, Kemper Lakes Development Area and
* Kemper 6 & 7 Parcels in Lake County, Illinois.

MISCELLANEOUS CHARGES

Miscellaneous charges shall be as stated in the Rules, Regulations and Conditions of Service on file with the Commission or as set forth below:

The reconnection fee charged by the Company shall be \$25.00.

A \$15.00 service fee will be assessed for each check returned by the bank uncashed due to insufficient funds.

The charge for the testing of meters one inch (1") and smaller shall be \$7.50, and the charge for the testing one and one-quarter (1¼") and two inch (2") meters will be \$15.00.

The minimum charge for water provided for building and construction purposes shall be \$5.00, payable in advance.

FRANCHISE CHARGES

The following franchise charges may be collected in addition to the rates and charges set forth elsewhere in this tariff:

Within the Village of Hawthorn Woods – Upon passage of a Village ordinance establishing a franchise charge three percent of Amounts Billed for Water Service. Amounts Billed for Water Service means amounts billed to customers which reside within the indicated municipality as water customer charges, volumetric rate charges, public fire protection charges, private fire protection charges or other monthly charges for water service (and not including other billed amounts).

* Indicates changes to tariff

Filed in Compliance with Order of
Illinois Commerce Commission in Docket No. 06-0795

Issued: July 3, 2007

Effective: July 11, 2007

Issued By: Terry J. Rakocy, President

1000 S. Schuyler Ave., Kankakee, IL 60901

AQUA ILLINOIS, INC.
LAKE COUNTY – HAWTHORN WOODS
LAKE COUNTY, ILLINOIS

ILL. C.C. No. 47
Section No. 10
Second Revised Sheet No. 5
Canceling First Revised Sheet No. 5

Applies To: * Village of Hawthorn Woods, Kemper Lakes Development Area and
 * Kemper 6 & 7 Parcels in Lake County, Illinois.

WATER SERVICE

Unaccounted-for Water

The maximum percentage of unaccounted-for water considered in the determination of any rates or surcharges shall not exceed 15.0%. Rates or surcharges approved shall not include charges for unaccounted-for water in excess of this maximum percentage without well-documented support and justification for the Commission to consider in any request to recover charges in excess of this maximum percentage.

* Indicates changes to tariff

Filed in Compliance with Order of
Illinois Commerce Commission in Docket No. 06-0795

Issued: July 3, 2007

Effective: July 11, 2007

Issued By: Terry J. Rakocy, President

1000 S. Schuyler Ave., Kankakee, IL 60901

AQUA ILLINOIS, INC.
LAKE COUNTY – HAWTHORN WOODS
LAKE COUNTY, ILLINOIS

ILL. C.C. No. 47
Section No. 10
First Revised Sheet No. 6
Canceling

Applies To: Village of Hawthorn Woods, Kemper Lakes Development Area, and
Kemper 6 & 7 Parcels in Lake County, Illinois.

WATER SERVICE

MUNICIPALITIES FOR RESALE SERVICE

Rates to Municipalities for Resale

The rate shall consist of a Customer Charge plus a Usage Charge.

Customer Charge

The Water Customer Charge for each metered Municipality for Resale Service Account shall be
* \$15.00 per month.

Usage Charge

In addition to the foregoing Customer Charge, each customer shall pay the following Usage
Charge:

For all water used - \$2.4329 per 1000 gallons.

This rate is available to municipalities desiring to receive water by metered service from Aqua Illinois, Inc.,
Hawthorn Woods Division for redistribution to the municipality consumers.

It shall be the responsibility of the municipality to maintain its own pressure and distribution
system, the rendering of bills, the collections of the bills and any customer service.

* Indicates change to tariff

Filed in Compliance with Order of Illinois Commerce Commission
in Docket 07-0620/07-0621/08-0067 (Consolidated)

Issued: August 28, 2008

Effective: September 5, 2008

Issued By: Terry J. Rakocy, President
1000 S. Schuyler Ave., Kankakee, IL 60901

EXHIBIT D

Agenda Item # 54

DISTRIBUTION
County Board
County Clerk
County Administrator
Recorder of Deeds
Public Works

STATE OF ILLINOIS)
) SS
COUNTY OF LAKE)

COUNTY BOARD, LAKE COUNTY, ILLINOIS
ADJOURNED REGULAR SEPTEMBER, A.D. 2006 SESSION

OCTOBER 10, 2006

MADAM CHAIR AND MEMBERS OF THE COUNTY BOARD:

Your Public Works and Transportation Committee presents herewith an Amended Ordinance Restricting the Outside Use of Water in Public Water Supply Systems of the County of Lake, Illinois, and request its adoption.

Respectfully submitted,

	<u>Deanna O'Kelly</u>	Aye	Nay
CHAIR	<u>[Signature]</u>	✓	
VICE CHAIR	<u>Ann B. Mair</u>	✓	
	<u>Sandy Cole</u>	✓	
	<u>Michael A. Calvert</u>	✓	

CERTIFIED TO BE A TRUE COPY OF
RECORDS OF THE LAKE COUNTY
BOARD MEETING OF

OCT 10 2006 APPROVED

CERTIFICATION NOT VALID UNLESS SEAL
OF LAKE COUNTY, ILLINOIS IS AFFIXED

William R. Helander County Clerk

PUBLIC WORKS AND TRANSPORTATION
COMMITTEE

VOICE VOTE

AN AMENDED ORDINANCE RESTRICTING THE OUTSIDE USE OF WATER IN PUBLIC WATER SUPPLY SYSTEMS OF THE COUNTY OF LAKE, ILLINOIS.

WHEREAS, the County of Lake is a participant in the allocation process of Lake Michigan water and is subject to the rules and regulations of the Illinois Department of Transportation (IDOT) and/or the Illinois Department of Natural Resources (IDNR), under its permit for the withdrawal of Lake Michigan water; and

WHEREAS, IDOT/IDNR has promulgated a rule restricting non-essential water uses, with particular reference to lawn sprinkling, and has requested that permittees incorporate similar provisions within their ordinances; and

WHEREAS, the County of Lake, through its Department of Public Works, operates certain public water supply systems that utilize water drawn from public wells, which were negatively impacted in 2005 by drought weather conditions, which demonstrated the need to have effective public water restrictions on non-essential water uses in place;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNTY BOARD OF THE COUNTY OF LAKE, LAKE COUNTY, ILLINOIS, as follows:

SECTION 1. RESTRICTIONS ON WATER USE.

The following mandatory water conservation regulation shall be applicable to all water service customers of the County of Lake Department of Public Works.

A. Summer General Water Use Restriction.

1. Excepting the use of hand-held hoses or sprinkling cans used for the watering of gardens and shrubs, the use of water from the County water system for landscape irrigation and all outside water use including, but not limited to washing cars and vehicles and filling pools, from May 15 through September 15 of each year is prohibited between the hours 10:00 AM and 6:00 PM, except that newly sodded or seeded areas of lawns may be watered at any time for a two-week period following installation of such sod or planting of such seed.

2. Occupants with even-numbered residences or structures shall be limited to water lawns and gardens and other landscape uses, wash cars and vehicles, and use water for outside use only on even-numbered days. Occupants with odd-numbered residences or structures shall be limited to water lawns and gardens and other landscape uses, wash cars and vehicles, and use water for outside use only on odd-numbered days.

B. Landscape Water Use Restrictions.

Definition. *Landscape.* For purposes of this Ordinance, the term "landscape" shall include shrubbery, trees, lawns, grass, ground covers, plants, vines, gardens, vegetables, or flowers.

C. Emergency Water Shortage.

1. The Director of the Department of Public Works is authorized, when the circumstances warrant, to issue a declaration of chronic water shortage, to ensure the maintenance of an adequate water supply of water to meet internal residential, business and firefighting requirements. Upon the declaration of a chronic water shortage situation, the following authorities or restrictions shall immediately be in force and effect.

(a) Following the initial declaration of a chronic water shortage, the Director is authorized, for all landscape water use, washing of cars and vehicles, and outside water usage, to restrict or limit water usage to specific hours or to totally prohibit such outside water usage.

2. Public Use Conservation Programs. When a chronic water shortage situation arises, the Director is authorized to order all public users to restrict activities calling for high water consumption. The high water consumption category includes, but is not limited to, the testing and clearing of fire hydrants, the cleaning of water mains, the conduct of fire drills, street washing (except in emergencies), sewer flushing, and the watering of public areas.

3. Administration. The authority to administer and enforce this Ordinance shall be in the Director of the Department of Public Works, or his or her designees. As the County provides public water services in some municipalities, the Director is authorized, by writing, to delegate enforcement of this Ordinance within municipal boundaries to officers or employees of that municipality, including court enforcement, if necessary.

4. Variances. Variances from the regulatory standards of this Ordinance may be granted in accordance with the requirements provided below. Any application for a variance shall be made to, and decided by, the Director. No variance shall be granted unless the applicant for the variance can demonstrate that:

- (a) An exceptional economic or other hardship would result without the variance; and
- (b) The relief granted is the minimum necessary; and
- (c) There will be no additional threat to public health, safety or welfare or the creation of a nuisance; and
- (d) No additional public expense will result.

5. Emergency Water Usage Plan. The Department of Public Works, through its Director, officers, and employees, shall establish, and keep on file, a current Emergency Water Use Plan for implementation and/or imposition during declared emergency water shortages.

SECTION 2. PENALTIES.

A. Any person or water customer who violates any provision or section of this Ordinance, or who violates any declaration or order of the Director under this Ordinance, shall be fined not less than \$50.00, nor more than \$250.00 for each violation. Each day that a violation exists or occurs shall constitute a separate offense.

B. The Director may also take any other available legal action necessary to prevent or to remedy any violation, including but not limited to appropriate equitable or injunctive relief or discontinuation of water service to the violator.

SECTION 3. VALIDITY.

A. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

B. The invalidity of any section, clause, sentence, or provision of this Ordinance shall not affect the validity of any other part of this Ordinance, which can be given effect without such invalid part or parts.

SECTION 4. EFFECTIVE DATE. This amended Ordinance shall be in full force and effect from and after its passage, approval and publication as required by law.

Adopted at Waukegan, Lake County, Illinois on this 10th day of October, A.D., 2006.

SECTION 7. This ordinance shall be published and take effect as provided by law.



CHAIR, COUNTY BOARD

ATTEST: (SEAL)



COUNTY CLERK

Adopted: September 11, 1990

Amended: October 10, 2006

EXHIBIT E

**THIS DOCUMENT PREPARED
BY AND AFTER RECORDING
RETURN TO:**

Daniel J. Jasica
Assistant State's Attorney
Lake County State's Attorney's Office
18 North County Street, 3rd Floor
Waukegan, IL 60085

**GRANT OF TEMPORARY EASEMENT, PERMANENT EASEMENT,
AND RIGHT OF WAY**

For and in consideration of the sum of Ten and No/100 Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are acknowledged hereby, the undersigned Grantor does hereby grant, bargain, sell and convey to the County of Lake, an Illinois municipal corporation (hereinafter referred to as "**Grantee**") a perpetual, permanent easement and right of way in, over, upon, through and under a portion of the land legally described as follows:

Lot 77 in Hawthorn Woods Unit No. 5, being a subdivision of part of the South Half (1/2) of Section 10, Township 43 North, Range 10 East of the Third Principal Meridian, as recorded June 2, 1958 as Document No. 991628, at the Lake County Recorder's Office, Lake County, Illinois.

More commonly known as 2 Lagoon Drive, Hawthorn Woods, IL 60047 with PIN 14-10-302-001.

The easement legal description is attached as Exhibit A.

(Hereinafter referred to as the "**Premises**"); for the limited purpose of the Grantee, its employees, agents and other persons acting on behalf of the Grantee, surveying, installing, extending, constructing, repairing, maintaining, inspecting, enlarging, reconstructing, and operating a public water main, valves, valve vaults, meters, meter transmitters, meter vaults, pipe, fittings, conduits, related materials, appurtenances, and equipment for the purpose of changing the topography in, over, upon, through, and under the Premises in order to accommodate the aforesaid surveying, installation, extending, constructing, repairing,

maintaining, inspecting, enlarging, reconstructing, and operating of a public water main, valves, valve vaults, meters, meter transmitters, meter vaults, pipe, fittings, conduits, related materials, appurtenances, and equipment.

As depicted on Exhibit B, some of the attached easement shall be temporary in nature and will terminate upon completion of the water main installation.

The Grantor covenants that it is the owner of the Premises and is authorized to execute this instrument. Grantor further represents and warrants that it shall take all necessary actions so that the easement contemplated by this instrument shall be released from all liens, including but not limited to, the lien of all mortgagees, mechanics' lien claims, security agreements, assignments of rents and leases, and shall execute all such documents as may be reasonably necessary to perfect the Grantee's right and interest herein.

Grantee agrees that all work on the Premises shall be done and completed in a good, workmanlike and safe manner and that upon completion of any work on the Premises by Grantee or its authorized agents, servants, employees or contractors, Grantee shall restore the Premises to its condition prior to such work.

Grantor hereby reserves the right to use the Premises in any manner that will not prevent or interfere with the exercise by the Grantee of the rights granted hereunder.

For the purposes set forth herein the Grantee, its officers, employees, representatives, agents, licensees, successors and assigns shall at all times have the right and privilege of access to the Premises. This grant of easement and right of way granted, the restrictions imposed by this instrument, and the agreements and covenants contained in this instrument shall be easements, rights, restrictions, agreements and covenants running with the land, shall be recorded against the Premises and be binding upon and inure to the benefit of the Grantor and the Grantee and their respective grantees, agents, heirs, successors in title, administrators, licensees, representatives, and assigns and all subsequent owners of the Premises, or any portion thereof and all persons claiming under them. If any of the easements, rights, restrictions, agreements, or covenants created by this instrument would otherwise be unlawful or void for violation of (a) the rule against perpetuities or some analogous provision, (b) the rule restricting restraints on alienation, or (c) any other statutory or common law rules imposing time limits, then such easements, rights, restrictions, agreements, or covenants shall continue only until 21 years after the death of the last survivor of the now living lawful defendants of George Herbert Walker Bush, former president of the United States.

IN WITNESS WHEREOF, the Grantor(s) have hereunto set his/her/their hand(s) and seals this _____ day of _____, 2008.

Grantor:

Print Name here: _____

STATE OF ILLINOIS)
) SS
COUNTY OF LAKE)

I, the undersigned, a Notary Public in the County aforesaid, do hereby certify that _____, personally known to me to be the same person whose name is subscribed to the foregoing instrument as the Grantor, appeared before me this date in person and acknowledged that she signed said instrument in her own free and voluntary act for the uses and purposes therein set forth.

Given under my hand and notarial seal this ____ day of _____, 2008

(SEAL)

Notary Public

ACCEPTANCE

The undersigned Grantee does hereby consent to and accepts the Easement and Right of Way granted and conveyed to it under the pursuant to the foregoing Grant of Permanent Easement and Right of Way and agrees that this acceptance and its covenants and agreements hereunder shall be binding upon the undersigned and its successors and assigns.

In witness whereof, the undersigned has executed and delivered this acceptance as of this ____ day of _____, 2008

COUNTY OF LAKE

Attest: (SEAL)

By: _____
Chairman County Clerk

STATE OF ILLINOIS)
) SS
COUNTY OF LAKE)

I, the undersigned, a Notary Public in and for said County in the State aforesaid, do hereby certify that Suzi Schmidt personally known to me to be the Chairman of the County of Lake, an Illinois municipal corporation, and Willard Helander, personally known to me to be the County Clerk thereof, and both personally known to me to be the same persons whose name are subscribed to the foregoing instrument as such Chairman and County Clerk, appeared before me this day in person and acknowledged that they signed, sealed and delivered said instrument as such Chairman and County Clerk and as their free and voluntary acts and as the free and voluntary act of said municipal corporation for the uses and purposes therein set forth.

Given under my hand and notarial seal this ____ day of _____, 2008

(SEAL)

Notary Public

EXHIBIT A

Permanent Utility Easement

Commencing at the southeasterly corner of the aforesaid Lot 77; thence northwesterly 174.26 feet along the southwesterly line of said Lot 77, said line being the northeasterly Right-of-Way line of Old McHenry Road, to the southwesterly corner of said Lot 77, said corner being the Point of Beginning; thence southeasterly 38.00 feet along the northeasterly Right-of-Way line of Old McHenry Road; thence northeasterly 30.00 feet at a right angle to the previously described line; thence northwesterly 44.7 feet (more or less) at a right angle to the previously described line to a point on the northwesterly line of Lot 77, said line being the southeasterly Right-of-Way line of Lagoon Drive; thence southwesterly 13 feet (more or less) along the northwesterly line of Lot 77; thence southerly 18.97 feet along the westerly line of Lot 77 to the Point of Beginning, as depicted on Exhibit B attached.

Temporary Construction Easement

Temporary Construction Easement shall be as depicted on Exhibit B attached.

