

RESOLUTION NO. R-38-10

**A RESOLUTION AUTHORIZING THE EXECUTION OF  
A TRANSFER AGREEMENT BETWEEN THE CITY OF WHEATON  
AND ILLINOIS-AMERICAN WATER COMPANY  
(ARROWHEAD WATER WHEELING AGREEMENT)**

**WHEREAS**, Citizens Utilities Company of Illinois and the DuPage Water Commission entered into a water purchase and sales contract dated October 1, 1992, and amended October 9, 1997, for the sale of Lake Michigan water by the Commission to Citizens Utilities for the Arrowhead water system, owned and operated by Citizens Utilities of Illinois, (hereinafter "Arrowhead Water System"); and

**WHEREAS**, the City, Citizens Utilities Company of Illinois, and the DuPage Water Commission entered into a water transmission and delivery agreement dated June 7, 1993 (hereinafter referred to as the "Original Water Wheeling Agreement") for the wheeling of water by the City to Citizens Utilities Company of Illinois for the Arrowhead Water System; and

**WHEREAS**, Illinois-American Water Company (hereinafter "Illinois American") purchased Citizens Utilities Company of Illinois' assets pursuant to an Asset and Stock Purchase Agreement dated October 15, 1999, including the Arrowhead Water System; and

**WHEREAS**, since October 15, 1999, Illinois American has operated and receives water for the Arrowhead Water System by wheeling through the City; and

**WHEREAS**, the City and Illinois American wish to confirm that there is contractual relationship between the two of them consistent with the water wheeling agreement between the City and Citizens Utilities Company of Illinois.

**NOW THEREFORE, BE IT RESOLVED**, by the Mayor and City Council of the City of Wheaton, DuPage County, Illinois, that the Mayor is hereby authorized to sign a certain Transfer Assumption Agreement between the City of Wheaton and Illinois-American Water Company.

**IT IS FURTHER RESOLVED** that the City Clerk is authorized and directed to attest to the signature of the Mayor and attach a certified copy of this resolution to the Transfer Assumption Agreement between the City of Wheaton and Illinois-American Water Company.

**ADOPTED** this 19<sup>th</sup> day of July, 2010.



\_\_\_\_\_  
Mayor

ATTEST:

Emily M. Scalzo  
City Clerk

ROLL CALL VOTE

Ayes: Councilman Suess  
Councilwoman Corry  
Councilman Levine  
Mayor Gresk  
Councilman Scalzo

Nays: None  
Absent: Councilman Mouhelis  
Councilman Prendiville

Motion Carried Unanimously

## **TRANSFER ASSUMPTION AGREEMENT**

This Agreement, made this 19<sup>th</sup> day of July, 2010 by and between Illinois-American Water Company, (hereinafter "Illinois American") an Illinois corporation and public utility within the meaning of Section 3-105 of the Public Utilities Act, 220 ILCS 5/11-101 *et seq.*, the transferee, and the City of Wheaton (hereinafter "Wheaton"), an Illinois municipal corporation,

### **WITNESSETH**

**WHEREAS**, Citizens Utilities Company of Illinois and the DuPage Water Commission entered into a water purchase and sales contract dated October 1, 1992, and amended October 9, 1997, for the sale of Lake Michigan water by the Commission to Citizens Utilities for the Arrowhead water system, owned and operated by Citizens Utilities of Illinois, (hereinafter "Arrowhead Water System"); and

**WHEREAS**, Wheaton, Citizens Utilities Company of Illinois, and the DuPage Water Commission entered into a water transmission and delivery agreement dated June 7, 1993 (hereinafter referred to as the "Original Water Wheeling Agreement") for the wheeling of water by Wheaton to Citizens Utilities Company of Illinois for the Arrowhead Water System; and

**WHEREAS**, Illinois American purchased Citizens Utilities Company of Illinois' assets pursuant to an Asset and Stock Purchase Agreement dated October 15, 1999, including the Arrowhead Water System; and

**WHEREAS**, since October 15, 1999, Illinois American has operated the Arrowhead Water System and has received wheeled water for this system through Wheaton; and

**WHEREAS**, Wheaton and Illinois American wish to make certain that there is contractual relationship between the two of them consistent with the original water wheeling agreement between Wheaton and Citizens Utilities Company of Illinois.

**NOW THEREFORE**, in consideration of Wheaton's agreement to accept transfer of the obligations provided herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is hereby agreed between Wheaton and Illinois American:

1. **RECITALS:** The foregoing recitals are incorporated herein as fully representing the intent of the parties and as substantive covenants and conditions.

2. **ASSUMPTION OF OBLIGATIONS:** Illinois American hereby agrees, at its sole cost and expense, to comply with and be bound by all of the terms, requirements and obligations imposed on Citizens Utilities Company of Illinois under any and all contracts, as set forth in the exhibits and attachments hereto between Citizens Utilities Company of Illinois and Wheaton, a copy of said Original Water Wheeling Agreement being attached hereto and incorporated herein as if fully set forth as Exhibit 1.

3. **ASSURANCES OF FINANCIAL ABILITY:** Illinois American upon request of Wheaton shall provide it with responsible assurances of financial ability to meet the obligations assumed hereunder as Wheaton may from time to time require.

4. **PAYMENT OF COSTS:** In addition to any other costs, payments, charges, contributions, or dedications required under the original water wheeling agreement, Illinois American shall pay to Wheaton, immediately upon presentation of a written demand or a demands therefore all legal, engineering, or other consulting or administrative fees, costs, and expenses incurred in connection with the negotiation, preparation, consideration and review of this Agreement and/or construction of the Emergency Interconnect.

5. **ACKNOWLEDGMENT OF DUTIES:** Wheaton hereby acknowledges its Agreement to Illinois American to comply with and be bound by the terms, requirements, and obligations imposed by Exhibit 1.

6. **NOT BARRED FROM CONTRACTING:** Illinois American hereby certifies and states that it is not barred from contracting Wheaton as a result of a violation of Section 33E3 or 33E4 of the Criminal Code.

7. **EFFECTIVE DATE:** This Agreement shall become effective on the last date of approval by the parties Corporate Authorities.

8. **MERGER:** This Agreement contains the entire agreement between Wheaton and Illinois American regarding Illinois American's assumption of the Arrowhead Water System and all prior discussions or negotiations regarding the same are merged herein. Any amendment to this Agreement shall require a separate written agreement approved by the Corporate Authorities of each party.

9. **LAWS:** This Agreement shall be construed in accordance with the laws of the State of Illinois.

10. **AMENDMENT:** No change, alteration, modification, or amendment to this Agreement shall be valid unless it is in writing, approved by each party's Corporate Authorities, and properly executed by both parties.

11. **ASSIGNMENT/ THIRD PARTY BENEFICIARIES:** This Agreement may not be assigned, transferred, or otherwise hypothecated without the written authority of the Corporate Authorities of the City of Wheaton. Nothing in this Agreement shall be deemed to confer any rights upon any persons, firm, or corporation other than the parties hereto.

*Michael Druse*  
\_\_\_\_\_  
Mayor, City of Wheaton

ATTEST:

*Emily M. Johnson*  
\_\_\_\_\_  
City Clerk, City of Wheaton

*Karla Olson Teasley*  
\_\_\_\_\_  
President, Illinois American Water Company 9/20/10

ATTEST:

*Cheryl Druse*  
\_\_\_\_\_  
Secretary, Illinois American Water Company



WATER TRANSMISSION AND DELIVERY AGREEMENT  
AMONG THE CITY OF WHEATON,  
CITIZENS UTILITIES COMPANY OF ILLINOIS  
AND THE DUPAGE WATER COMMISSION

This Water Transmission and Delivery Agreement (the "Agreement"), dated as of June 7, 1993, by and among the CITY OF WHEATON, a municipal corporation of the State of Illinois (the "City"), and CITIZENS UTILITIES COMPANY OF ILLINOIS, an Illinois corporation ("Citizens Utilities") and a public utility within the meaning of Section 10 of Article 1 of "An Act Concerning Public Utilities" 220 ILCS 5/1-101 et seq. (1992), (Ill. Rev. Stat. ch. 111 2/3, 1-101 et seq.), and the DUPAGE WATER COMMISSION, DuPage, Cook, and Will Counties and State of Illinois (the "Commission"), a county water commission and public corporation under Division 135 of Article II of the Illinois Municipal Code, 65 ILCS 5/11-135-1 et seq. (1992), (Ill. Rev. Stat. ch. 24, 11-135-1 et seq.) and the Water Commission Act of 1985, 70 ILCS 3720/1 et seq. (1992) (Ill. Rev. Stat. ch. 111 2/3, 251 et seq.)

W I T N E S S E T H

WHEREAS, Citizens Utilities has entered into a Water Purchase and Sale Contract dated October 1, 1992 (the "Citizens Customer Contract") with the Commission for sale by the Commission of Lake Michigan water to Citizens Utilities for a potable water distribution system owned and operated by Citizens Utilities (the "Arrowhead System"); and

WHEREAS, the Citizens Customer Contract provides in Subsection 4B that Citizens Utilities may negotiate for alternate delivery of Lake water through a charter customer of the Commission in lieu of a direct connection between the Commission's water system and the Arrowhead System; and

WHEREAS, the City has entered into a Water Purchase and Sale Contract dated June 11, 1986 (the "Charter Customer Contract") with the Commission and is a charter customer of the Commission; and

WHEREAS, Citizens Utilities and the City desire to enter into a water transmission and delivery agreement for the alternate delivery of Lake water in the form of this Agreement; and

WHEREAS, the City owns and operates a water distribution system (the "City System"), which system will be supplied with Lake water by the Commission pursuant to the terms of the Charter Customer Contract; and

WHEREAS, Citizens Utilities' Arrowhead System is adjacent to the City system and is capable of being served with the alternate delivery of Lake water through the City System; and

WHEREAS, the Commission has reviewed and approved this Agreement in accordance with the requirements of Subsection 4B of the Citizens Customer Contract;

NOW, THEREFORE, in consideration of the foregoing recitals and of the mutual covenants and agreements herein contained, Citizens Utilities, the City, and the Commission hereby agree as follows:

Section 1. Agreement to Deliver. The City agrees to transmit and deliver Lake water purchased by Citizens Utilities from the Commission through the City System to the Arrowhead System, subject to availability of such Lake water from the Commission. The City's obligation to deliver Lake water hereunder, shall be limited to a maximum annual amount equivalent to the Arrowhead System's then current water allocation, and provided further that the maximum rate of Lake water that the City shall be required to deliver to the Arrowhead System in any one hour shall be in an amount equal to 1.7 times the Arrowhead System's water allocation as determined on an hourly basis. Notwithstanding any requirement of the Citizens Customer Contract to the contrary, the Commission shall bear no responsibility for the contamination of such Lake water or deterioration of water quality occurring beyond the Commission's point of delivery to the City System. The City shall bear no responsibility for the contamination of such Lake water or deterioration of water quality occurring beyond the City's point of delivery to the Arrowhead System. The City will deliver Lake water to the Arrowhead System through an interconnection (the

"Interconnection") consisting of the Arrowhead System Metering Station, the Arrowhead System Connection Facilities and the City System Improvements, all as more fully described below. Said deliveries shall be at a pressure not to exceed 85 pounds per square inch and not to be less than 35 pounds per square inch, measured at Arrowhead System Metering Station. Notwithstanding any requirement of the Citizens Customer Contract to the contrary, title to all Lake water supplied by the Commission shall remain in the Commission to the point of delivery to the City System and thereupon shall pass to the City and Citizens Utilities as their interests may appear.

Section 2. Construction of Interconnection

A. Metering Station. The Commission shall furnish, install, own, operate, maintain, and when necessary replace at the Interconnection a metering station and point of delivery (the "Arrowhead System Metering Station") pursuant to Section 5 of the Citizens Customer Contract in accordance with the timetable established in the Citizens Customer Contract, except that such metering station shall be as described in Exhibit A to this Agreement rather than as described in Exhibit B-2 to the Citizens Customer Contract. Notwithstanding any requirement of the Citizens Customer Contract to the contrary, the Commission shall not be required to connect the Commission's Waterworks System to the Arrowhead System Connection Facilities or the Arrowhead System Metering Station so long as this Agreement is in effect. For purposes of the Citizens Customer Contract, the "Point of Delivery" shall be a point in the Interconnection 10 feet downstream from the point at which the Lake water delivered to Citizens Utilities pursuant to the Citizens Customer Contract leaves the Arrowhead System Metering Station and enters the Arrowhead System. Citizens Utilities and the City shall grant to the Commission all necessary easements for the Arrowhead System Metering Station pursuant to Section 5 of the Citizens Customer Contract.

B. Arrowhead System Connection Facilities. Citizens Utilities shall site, design, construct, operate, maintain, and when necessary replace the Arrowhead System Connection Facilities pursuant

to Subsection 4A of the Citizens Customer Contract, except that such facilities shall be as described in Exhibit B to this Agreement rather than as described in Exhibit B-1 to the Citizens Customer Contract. The Arrowhead System Connection Facilities shall be designed and constructed in accordance with the timetable established in the Citizens Customer Contract. Notwithstanding any requirement of the Citizens Customer Contract to the contrary, Citizens Utilities shall not be required to construct a pressure adjusting station so long as this Agreement is in effect. Citizens Utilities shall maintain the Arrowhead System, including the Arrowhead System Connection Facilities, in good working condition.

C. Extension and Improvement of City System. Citizens Utilities shall design, construct, and maintain at its sole cost and expense, the extensions and improvements of the City System, described in Exhibit C to this Agreement, and required to connect the City system to the Arrowhead System Connection Facilities and the Arrowhead System Metering Station and to permit delivery of Lake water to the Arrowhead System through the City System ("City System Improvements"). All design and construction plans and specifications for such extensions and improvements shall require the written approvals of the Commission and the City before commencement of any construction and the City System Improvements shall be designed and constructed in accordance with the timetable established for the design and construction of the Arrowhead System Connection Facilities in the Citizens Customer Contract. Upon satisfactory completion in accordance with such approved plans and specifications, all such improvements and extensions shall remain the maintenance responsibility of Citizens Utilities. For maintenance responsibility purposes, the point at which Citizens Utilities becomes responsible for maintenance of the improvements and extensions described in this Subsection is a point along the extended watermain immediately downstream of the main valve controlling flow from the City System to the Arrowhead System Metering Station.

Section 3 Metering Station Access The Commission shall provide access to the Arrowhead System Metering Station to Citizens Utilities and the City at reasonable times for purposes of examination and inspection, but the readings of each meter for billing

purposes, calibration, and adjustment of the equipment therein shall be done only by the employees or agents of the Commission.

Section 4. Meter Readings The Commission shall read the meters at the Arrowhead System Metering Station ("Arrowhead System Meters") and the Commission meters installed or maintained pursuant to the Charter Customer Contract to serve the City System ("City System Meters") as close to simultaneously as reasonably possible.

Section 5. Prices; Terms of Payment

A. Citizens Utilities' Payments to the Commission.

Citizens Utilities shall make all required payments to the Commission in accordance with the terms of the Citizens Customer Contract. To the extent that such payments depend upon the amount of Lake water delivered to the Arrowhead System, Citizens Utilities' payments to the Commission pursuant to the Citizens Customer Contract shall be based on readings taken by the Commission of the Arrowhead System Meters.

B. City's Payments to the Commission. The City shall make all required payments to the Commission in accordance with the terms of the Charter Customer Contract. To the extent that such payments depend on the amount of Lake water delivered to the City system, the City's payments to the Commission pursuant to the Charter Customer Contract shall be based on the difference between the readings taken by the Commission of the City System Meters and the readings taken by the Commission of the Arrowhead System Meters. If, for any billing period, the measurement of the amount of Lake water delivered through the Arrowhead System Meters to the Arrowhead System exceeds the measurement of the amount of Lake water delivered through the City System Meters, then the difference between such readings shall be deemed to be zero.

C. Citizens Utilities Payments to the City. Citizens Utilities shall pay to the City, for the water transmission and delivery services provided under this Agreement, the amount of \$0.20 per thousand gallons of water, or fraction thereof, metered by the Arrowhead System Meters (the "wheeling rate"). The City shall invoice Citizens Utilities monthly for such services, and payment shall be due within 30 days after invoicing by the City. Both parties to this Agreement will review the variable components of the operational and

maintenance expense to determine if any adjustments are required to the wheeling rate. Citizens Utilities agrees that the wheeling rate may be adjusted in the same proportion that the City's water rate to its customer base increases or decreases. The City agrees to give Citizens Utilities sixty (60) days written notice prior to any rate change going into effect, but any change in rates can go into effect only upon Citizens Utilities receiving approval from the Illinois Commerce Commission.

Section 6. Water Storage Capacity. The City and Citizens shall, each for its own system, construct and maintain, during the entire term of this Agreement and any renewal or extension of it, effective water storage capacity equal to the water storage capacity required by its respective Customer Contract with the Commission. Such water storage capacity shall be constructed, maintained, and expanded as necessary in accordance with the terms of the Charter Customer Contract and the Citizens Customer Contract.

Section 7. Limitations on Supply of Water.

A. Curtailment. If at any time it becomes necessary for the Commission to limit generally its delivery of Lake water to its customers for any reason, then the City and Citizens Utilities together shall take all reasonable and appropriate actions to provide that such Lake water as is delivered by the Commission is shared by the City and Citizens Utilities on a pro rata basis in accordance with their respective Customer Contracts with the Commission; provided, however, that if as a result of such limitations of delivery of Lake water, the City deems it necessary to impose water use limitations on customers of the City System, then Citizens Utilities shall impose similar water use limitations on customers of the Arrowhead System, and shall actively enforce such limitation through all reasonable means, including shut-off of water service to offending customers. Upon written notice from the City to Citizens Utilities that Citizens Utilities has failed to actively enforce such limitations as to customers of the Arrowhead System, and the failure of Citizens to remedy such defect, the City shall be entitled to restrict the supply of water to the Arrowhead System to a level consistent with the amount to be supplied if such water use limitations had been and were being enforced. In addition, the City is under no obligation to provide

Citizens Utilities with the City's well system water in the event the Commission limits the supply of Lake Water for any reason.

B. Limitation on Supply to City. If at any time it becomes necessary for the Commission to limit its delivery of Lake water to the City System (but not to the Arrowhead System) for any reason pursuant to the Charter Customer Contract and specifically related to the City, then the City shall take all reasonable and appropriate actions, including without limitation the imposition of water use limitations on customers of the City System, to limit the use of Lake water in the City System so that the full amount of Lake water to which the Arrowhead System is entitled at that time is delivered by the City to the Arrowhead System Metering Station during such period of curtailment.

C. Limitation on Supply to Citizens Utilities. If at any time it becomes necessary for the Commission to limit its delivery of Lake water to the Arrowhead System (but not to the City System) for any reason pursuant to the Citizens Customer Contract and specifically related to Citizens Utilities, then the City shall, and shall be entitled to, make all necessary and appropriate adjustments to the City System, and the Commission may, and shall be entitled to make all necessary and appropriate adjustments to the Arrowhead System Metering Station, to assure that the appropriate amount of Lake water is delivered to the Arrowhead System during such period of curtailment.

D. No Liability of Commission. Citizens Utilities and the City each hereby acknowledge and agree that the Commission shall not be obligated to enforce the provisions of this Section 7 but may do so in its sole and absolute discretion and that the Commission shall not be liable either to Citizens Utilities or to the City for any damages occasioned by or in any way related to any limitation on, or delay in, the delivery of Lake water to them or to either one of them.

E. No Liability of City. Citizens Utilities hereby acknowledges and agrees that the City shall not be liable to Citizens Utilities for any damages occasioned by or in any way related to any limitation on, or delay in, the delivery of Lake water to them.

F. Rate of Withdrawal. The rate of withdrawal from the City System to the Arrowhead System shall not exceed the rate allowed by Section 3 (A) of the Citizens Customer Contract.

G. Expansion of the Arrowhead System Service Area: The current service area of the Arrowhead System is designated on the map attached hereto as Exhibit D. Citizens Utilities shall obtain written approval from the City prior to expanding the current service area of the Arrowhead System. If the proposed service area expansion of the Arrowhead System affects property serviceable by the City System, the City reserves the right of first refusal to annex the affected property and require its connections to the City System. Notwithstanding any requirements of the Citizens Customer Contract to the contrary, and subject to all of the provisions of the Citizens Customer Contract, the Commission shall only be required to sell and deliver to Citizens Utilities an amount of Lake Water necessary from time to time to serve the Full Water Requirements of the Arrowhead System's current service area designated on Exhibit D attached hereto. For purposes of the Citizens Customer Contract, the "Arrowhead System" shall be the waterworks system described in the Illinois Commerce Commission Certificates of Public Convenience and Necessity listed in Exhibit A to the Citizens Customer Contract as well as any extensions or improvements of that system as may be jointly approved by additional or amended Illinois Commerce Commission Certificates of Convenience and Necessity and by the City of Wheaton.

Section 8. Releases and Indemnifications. Citizens Utilities hereby releases the City and the Commission from, and agrees that neither the City nor the Commission shall be liable for, any damages resulting from failure to supply Lake water or for any interruption of the Lake water supply. Citizens Utilities hereby agrees to indemnify, save, and hold harmless the City and the Commission, and either one of them, from and against all claims, litigation, and liability, including legal defense costs and expenses and attorneys' fees, asserted against the City and the Commission, or either one of them, for any loss or damage to any real or personal property caused by, connected with, or in any way attributable to the installation, maintenance, or operation of the Arrowhead System or the Interconnection. Citizens Utilities shall have the right to

participate in the defense of any such claim or litigation and, upon the request of either the City or the Commission, shall undertake the defense of the requesting party.

The City and Citizens Utilities, individually and jointly, hereby agree to indemnify, save, and hold harmless the Commission, and its officers, agents and employees, from and against all claims, litigation, and liability, including legal defense costs and expenses and attorneys' fees, asserted against them or any of them for injury to or the death of any person or persons whomsoever or for any loss or damage to any real or personal property caused by, connected with, or in any way attributable to any exercise by the City or Citizens Utilities of any right or duty herein granted or any failure by the City or Citizens Utilities to exercise any such right or duty or to comply with any of the terms or conditions hereof. The City or Citizens Utilities shall have the right to participate in the defense of any such claim or litigation and, upon request by the Commission, shall undertake the defense of the Commission, as well as its officers, agents, and employees.

Section 9 Interpretation; Compliance with Existing Contracts

This Agreement shall be deemed to be the separate written contract between the Commission and Citizens Utilities required by Subsection 4B of the Citizens Customer Contract for the Alternate Delivery of Lake water. Except where expressly provided in this Agreement, nothing in this Agreement shall be construed to be, or applied in any manner, inconsistent with the terms of the Charter Customer Contract or the Citizens Customer Contract, and if there is any conflict or inconsistency between the terms of this Agreement and the terms of either one or both of those Contracts, then the terms of those Contracts shall control.

The City shall at all times comply with all terms and conditions of the Charter Customer Contract, and Citizens Utilities shall at all times comply with all terms and conditions of the Citizens Customer Contract, including without limitation the making of all payments due thereunder promptly to the Commission and the development of the Arrowhead System Connection Facilities in accordance with the timetable established therein. Under no

circumstances shall any dispute of any nature under this Agreement, or Citizens Utilities' inability to receive water through the Interconnection provided by this Agreement, excuse, delay, or in any other way affect the City's or Citizens Utilities' performance under such Contracts, including without limitation the making of all such payments.

Section 10. ICC Approval. This Agreement is subject to the approval of the Illinois Commerce Commission, and the City agrees to cooperate with Citizens Utilities in support of Citizens Utilities' application seeking said approval. If the Illinois Commerce Commission approves some but not all of the provisions of this Agreement, then the parties to this Agreement may, each in the exercise of its own discretion, agree by written amendment to revise the provisions of this Agreement to a form satisfactory to the Illinois Commerce Commission. In the event of such an agreed revision, this Agreement shall take effect as revised. Nothing in this Agreement shall be construed to require any party to agree to any revision to this Agreement as a result of any action by the Illinois Commerce Commission. Under no circumstances shall any delay in, or failure of, the Illinois Commerce Commission approval of this Agreement affect Citizens Utilities' duties and obligations under the Citizens Customer Contract.

Section 11. Term. The term of this Agreement shall be from the date Lake water is first delivered by the City to the Arrowhead System until the end of the term, of the Citizens Customer Contract or the end of the term, of the City's Charter Customer Contract, whichever is earlier. The term of the Citizens Utilities Customer Contract and the City's Customer Contract is currently in force and effect until February 24, 2024.

This agreement shall not automatically renew in the event that the term of either the Citizens Customer Contract or City's Charter Customer Contract is renewed or extended. The parties agree to begin negotiations for a succeeding agreement for the alternate delivery of Lake Water not later than six months prior to the end of the term of this Agreement; provided, however, that nothing in this Agreement shall be construed to require any such renewal or extension of this

Agreement, with or without modification to the terms and conditions of this Agreement, nor to require any party to agree to any such modifications.

Section 12. Governing Law. This Agreement shall be construed exclusively under the applicable laws of, but not the conflicts of laws rules of, the State of Illinois.

Section 13. Amendment. This Agreement shall not be modified, revised, amended, or annulled in any way except in writing approved by all parties hereto.

Section 14. Notices. All notices or communications provided for herein shall be in writing and shall be delivered in person or by certified United States mail, return receipt requested, postage prepaid, addressed as follows:

To the City:

City of Wheaton  
303 West Wesley St.  
Wheaton, IL 60187

Attention: City Manager

To Citizens Utilities:

Citizens Utilities Company of Illinois  
315 South Stewart Avenue  
Addison, IL 60101

Attention: General Manager

To the Commission:

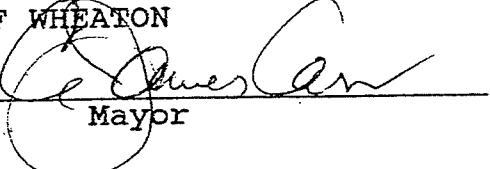
DuPage Water Commission  
600 Butterfield Road  
Elmhurst, IL 60126

Attention: General Manager

until and unless other addresses are specified by notice given in accordance herewith.

IN WITNESS WHEREOF, the City, Citizens Utilities, and the Commission have caused this Agreement to be properly signed and attested to by their respective officers, and their seals affixed hereto, all as of the day and date first hereinabove set forth.

CITY OF WHEATON

By: 

Mayor

(Corporate Seal)

ATTEST:

Emily M. Conelagis  
City Clerk

CITIZENS UTILITIES COMPANY  
OF ILLINOIS

By: Ronald W. Miller  
Vice President

(Corporate Seal)

ATTEST:

Secretary Charles

DUPAGE WATER COMMISSION

By: Joe F. Furtwangler  
Chairman

(Corporate Seal)

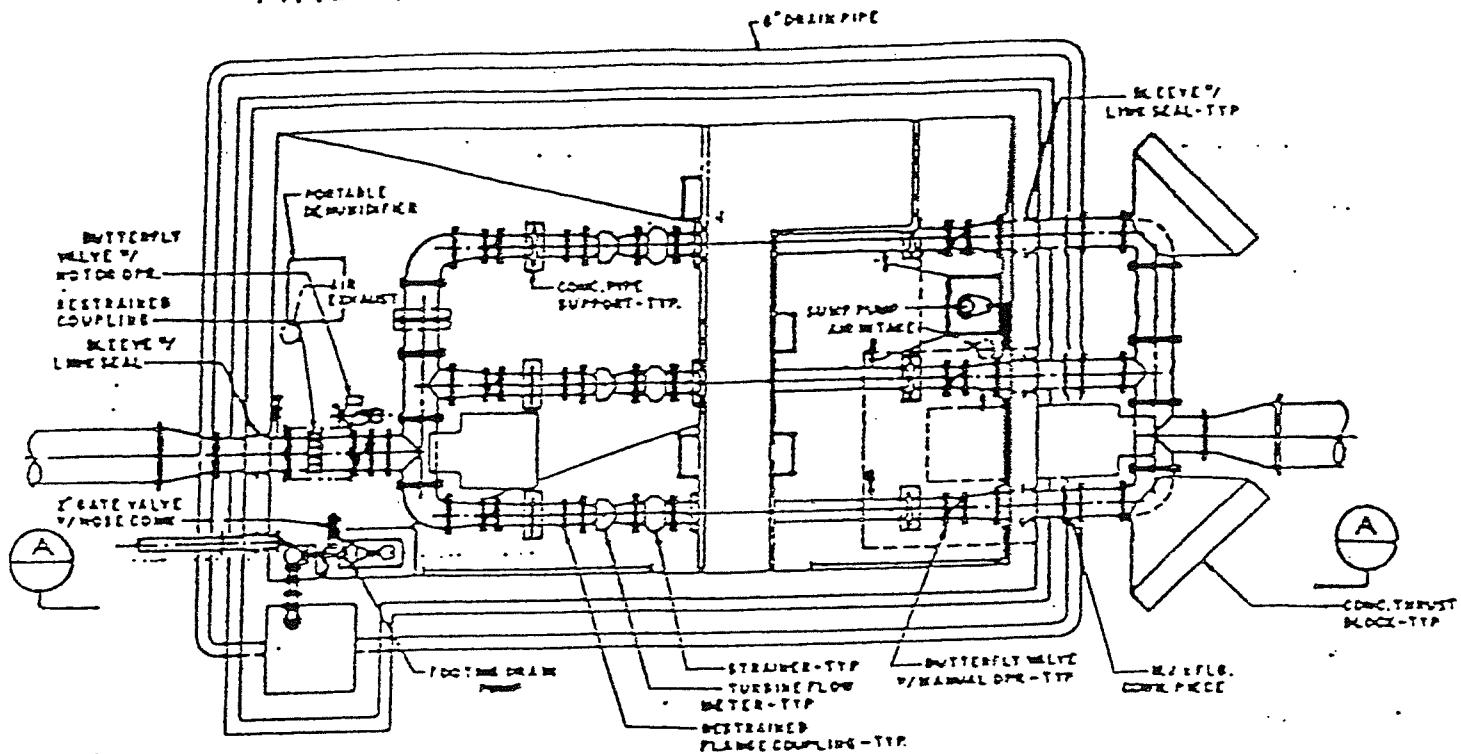
ATTEST:

Robert E. Lewis  
Clerk

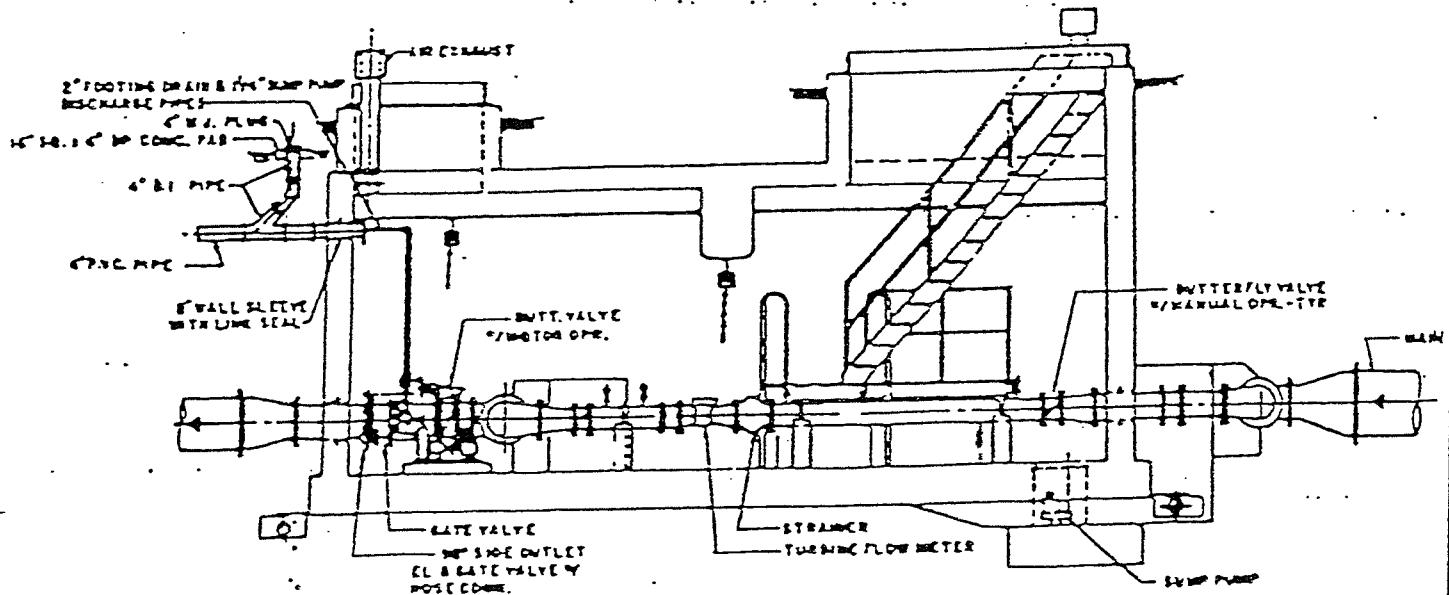
deliv61a:wh  
Revised 6/2/93

PRELIMINARY PLAN FOR THE  
COMMISSION CONNECTION FACILITIES  
AND POINT OF DELIVERY

EXHIBIT A  
1 OF 2



PLAN  
NO SCALE

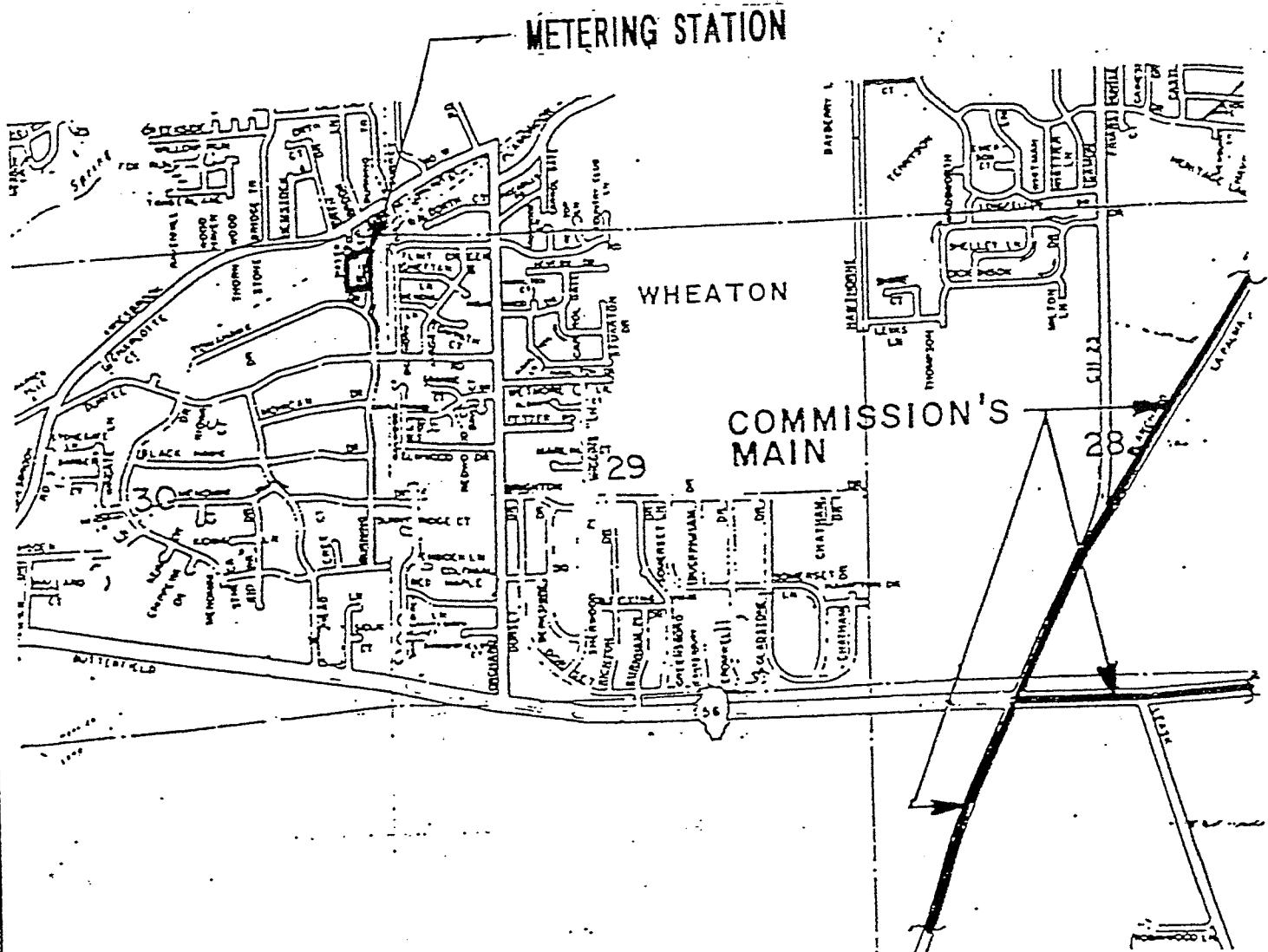
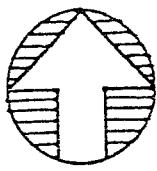


SECTION  
NO SCALE

METER STATION  
(TYPICAL)

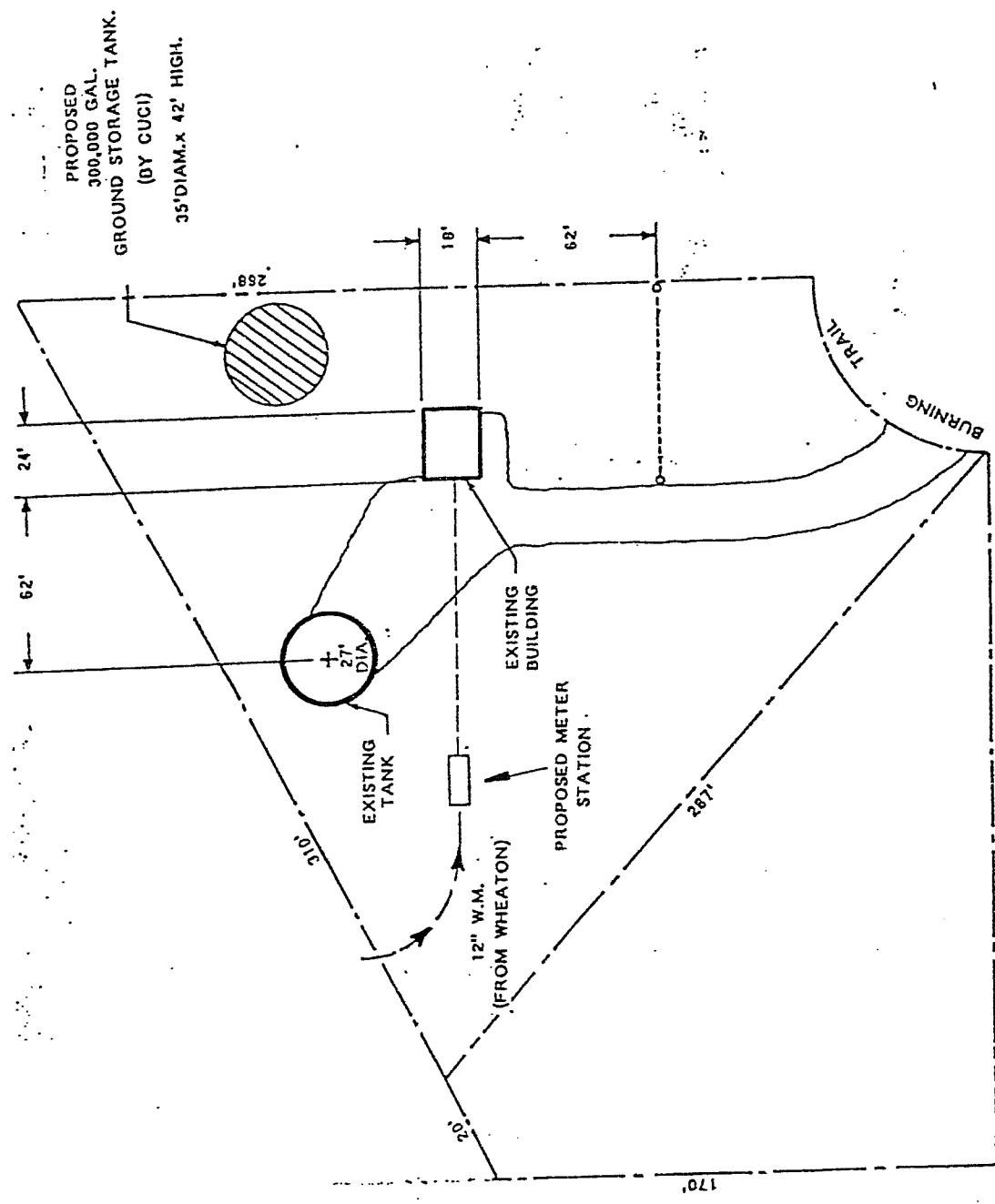
ALVORD, BURDICK & HOWSON  
ENGINEERS 1992 CHICAGO

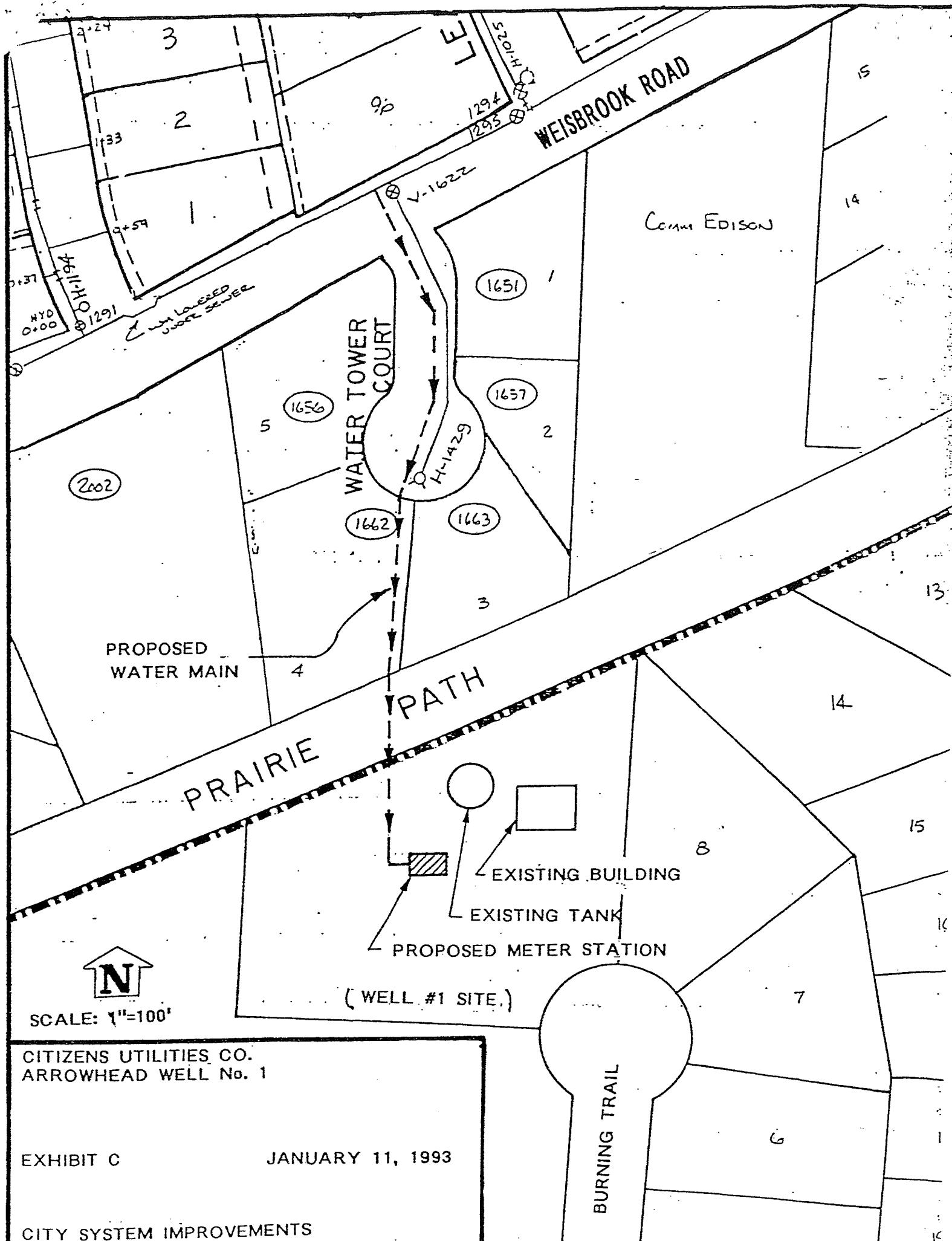
PRELIMINARY PLAN FOR THE  
COMMISSION CONNECTION FACILITIES  
AND POINT OF DELIVERY

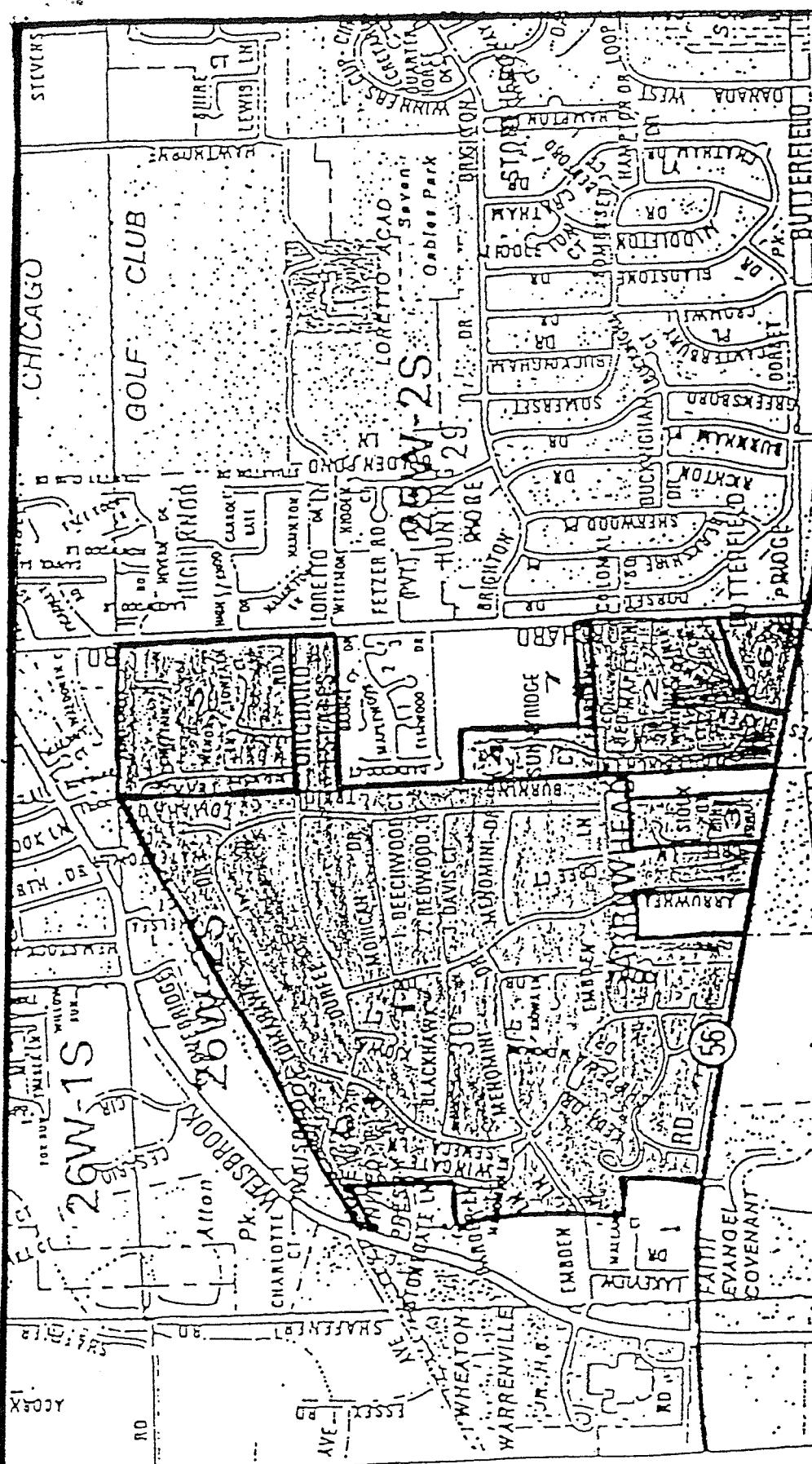


CITIZEN'S UTILITIES CO.  
ARROWHEAD METER STATION

EXHIBIT B  
PRELIMINARY PLAN FOR ARROWHEAD SYSTEM  
CONNECTION FACILITIES







# ARROWHEAD CITIZENS UTILITIES SYSTEM

EXHIBIT D

DOCKET NUMBER

7-88-024  
6-83-065  
4-78-023  
3-55197  
5-50151  
2-51105  
1-45749

ARROWHEAD SYSTEM  
DUPAGE COUNTY T.39 N. R.

**DUPAGE COUNTY 1.39 N. R.10 E**

31. PRESERVE  
26W-35

FOREST

1-43/43  
2-51105  
3-55197  
4-78-023  
5-50151  
6-88-063  
7-88-024

**ARROWHEAD GOLF**

CLUB

HERICK

•



# CITY OF WHEATON

303 W. Wesley Street • Box 727  
Wheaton, Illinois 60187

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(708) 260-2000 • FAX (708) 260-2017 • TDD (708) 260-8090

I HEREBY CERTIFY that I am the City Clerk of the City of Wheaton, DuPage County, Illinois, and that, as such City Clerk, I have the custody of the papers, entries, records and ordinances of said City.

I FURTHER CERTIFY that the attached is a true and correct copy of Resolution R-31-93 which was adopted by the Wheaton City Council on June 7, 1993.

I have hereunto set my hand and affixed the seal of said City this 9th day of June, 1993.

Erin M. Canalejo  
City Clerk

*Mayor*

*City Council*

*City Manager*

---

C. James Carr

Fran S. Culler • Linda E. Davenport • Grant Eckhoff  
Richard E. Gerig • Donald L. Maxwell • Robert Mork

Donald B. Rose

RESOLUTION R-31-93

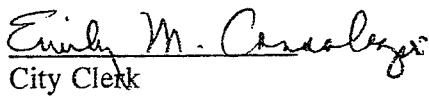
A RESOLUTION AUTHORIZING THE EXECUTION OF A WATER TRANSMISSION AND  
DELIVERY AGREEMENT AMONG THE CITY OF WHEATON, CITIZENS UTILITIES  
COMPANY OF ILLINOIS AND THE DUPAGE WATER COMMISSION

BE IT RESOLVED by the Mayor and City Council of the City of Wheaton, Illinois that the Mayor is authorized to sign a Water Transmission and Delivery Agreement among the City of Wheaton, Citizens Utilities Company of Illinois and the DuPage Water Commission; and the City Clerk is authorized to attest to the signature of the Mayor.

ADOPTED this 7th day of June, 1993.

  
\_\_\_\_\_  
Mayor

ATTEST:

  
\_\_\_\_\_  
Emily M. Cerasella  
City Clerk

Ayes:

Roll Call Vote:

Councilman Maxwell  
Councilman Mork  
Councilwoman Culler  
Councilwoman Davenport  
Councilman Eckhoff  
Mayor Carr  
Councilman Gerig

Nays:

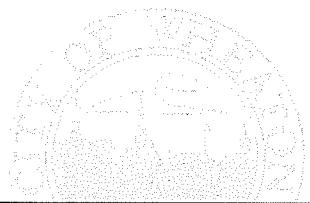
None

Absent:

None

Motion Carried Unanimously





City of Wheaton, Illinois

Wheaton City Hall  
303 W. Wesley St., Box 727  
Wheaton, IL 60187-0727

[www.wheaton.il.us](http://www.wheaton.il.us)

## CITY OF WHEATON, ILLINOIS

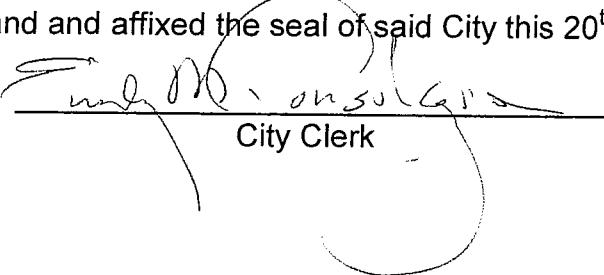
R- 38-10

### A RESOLUTION AUTHORIZING THE EXECUTION OF A TRANSFER AGREEMENT BETWEEN THE CITY OF WHEATON AND ILLINOIS-AMERICAN WATER COMPANY (ARROWHEAD WATER WHEELING AGREEMENT)

I HEREBY CERTIFY that I am the City Clerk of the City of Wheaton, DuPage County, Illinois, and that, as such City Clerk, I have the custody of the papers, entries, records and ordinances of said City.

I FURTHER CERTIFY that the attached is a true and correct copy of City of Wheaton Resolution R -38-10 which was adopted by the Wheaton City Council on Monday July 19<sup>th</sup>, 2010.

I have hereunto set my hand and affixed the seal of said City this 20<sup>th</sup> day of July, 2010.

  
\_\_\_\_\_  
City Clerk



**RESOLUTION NO. R-38-10**

**A RESOLUTION AUTHORIZING THE EXECUTION OF  
A TRANSFER AGREEMENT BETWEEN THE CITY OF WHEATON  
AND ILLINOIS-AMERICAN WATER COMPANY  
(ARROWHEAD WATER WHEELING AGREEMENT)**

**WHEREAS**, Citizens Utilities Company of Illinois and the DuPage Water Commission entered into a water purchase and sales contract dated October 1, 1992, and amended October 9, 1997, for the sale of Lake Michigan water by the Commission to Citizens Utilities for the Arrowhead water system, owned and operated by Citizens Utilities of Illinois, (hereinafter "Arrowhead Water System"); and

**WHEREAS**, the City, Citizens Utilities Company of Illinois, and the DuPage Water Commission entered into a water transmission and delivery agreement dated June 7, 1993 (hereinafter referred to as the "Original Water Wheeling Agreement") for the wheeling of water by the City to Citizens Utilities Company of Illinois for the Arrowhead Water System; and

**WHEREAS**, Illinois-American Water Company (hereinafter "Illinois American") purchased Citizens Utilities Company of Illinois' assets pursuant to an Asset and Stock Purchase Agreement dated October 15, 1999, including the Arrowhead Water System; and

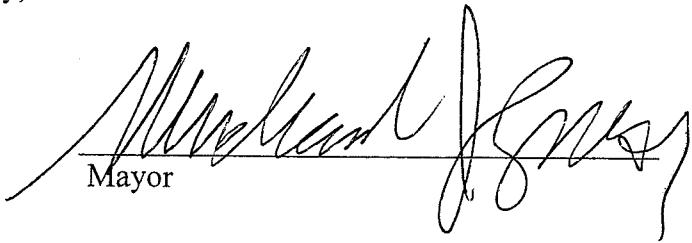
**WHEREAS**, since October 15, 1999, Illinois American has operated and receives water for the Arrowhead Water System by wheeling through the City; and

**WHEREAS**, the City and Illinois American wish to confirm that there is contractual relationship between the two of them consistent with the water wheeling agreement between the City and Citizens Utilities Company of Illinois.

**NOW THEREFORE, BE IT RESOLVED**, by the Mayor and City Council of the City of Wheaton, DuPage County, Illinois, that the Mayor is hereby authorized to sign a certain Transfer Assumption Agreement between the City of Wheaton and Illinois-American Water Company.

**IT IS FURTHER RESOLVED** that the City Clerk is authorized and directed to attest to the signature of the Mayor and attach a certified copy of this resolution to the Transfer Assumption Agreement between the City of Wheaton and Illinois-American Water Company.

**ADOPTED** this 19<sup>th</sup> day of July, 2010.

  
\_\_\_\_\_  
Mayor

ATTEST:

*Emily M. Sculley*  
City Clerk

ROLL CALL VOTE

Ayes: Councilman Suess  
Councilwoman Corry  
Councilman Levine  
Mayor Gresk  
Councilman Scalzo

Nays: None  
Absent: Councilman Mouhelis  
Councilman Prendiville

Motion Carried Unanimously