

AGENDA
CITY OF ST. CHARLES
GOVERNMENT SERVICES COMMITTEE MEETING
ALDR. RYAN BONGARD, CHAIR
MONDAY, JUNE 24, 2024 – 7:00 P.M.
CITY COUNCIL CHAMBERS
2 E. MAIN STREET

1. **Call to Order.**
2. **Roll Call.**
3. **Administrative.**
4. **Omnibus Vote.**

Items with an asterisk (*) are considered to be routine matters and will be enacted by one motion. There will be no separate discussion on these items unless a council member/citizen so requests, in which event the item will be removed from the consent agenda and considered in normal sequence on the agenda.

5. Public Works Department

- A. Illinois Municipal Electric Agency (IMEA) Power Sales Contract.
- B. Recommendation to Approve a Resolution to Authorize Issuing a Purchase Order to Schweitzer Engineering Laboratories (SEL), Inc. for SEL Relays.
- C. Recommendation to Approve a Resolution to Authorize Issuing Purchase Orders to Badger Meter, Inc. for Badger AMI Water Meter Equipment.
- D. Presentation of 2024 Bicycle and Pedestrian Improvements.
- E. Recommendation to Approve a Resolution Authorizing a Design Engineering Contract for Phase II Design for 12th and Dean Stormwater Improvements Project.
- F. Recommendation to Approve a Resolution to Award the Bid of the Final Clarifiers Rehabilitation.
- *G. Recommendation to Approve a Resolution Authorizing a Contract Amendment with Benesch for Prairie Bridge Repairs Construction Engineering.
- *H. Recommendation to Approve a Resolution Authorizing a Contract for the 2025 Geotechnical Investigations Program.
- *I. Recommendation to Approve a Consultant Contract for Phase I and II Design for Illinois Avenue Midblock Crossing.
- *J. Recommendation to Approve a Resolution Authorizing a Lease Agreement with the Fox Valley Aero Club.

6. Public Comment

7. Additional Items from Mayor and City Council Members


8. Executive Session

- Personnel – 5 ILCS 120/2(c)(1)
- Pending, Probable or Imminent Litigation – 5 ILCS 120/2(c)(11)
- Property Acquisition – 5 ILCS 120/2(c)(5)
- Collective Bargaining – 5 ILCS 120/2(c)(2)
- Review of Executive Session Minutes – 5 ILCS 120/2(c)(21)

9. Adjourn

ADA Compliance

Any individual with a disability requesting a reasonable accommodation in order to participate in a public meeting should contact the ADA Coordinator, Jennifer McMahon, at least 48 hours in advance of the scheduled meeting. The ADA Coordinator can be reached in person at 2 East Main Street, St. Charles, IL, via telephone at (630) 377 4446 or 800 526 0844 (TDD), or via e-mail at jmcmahon@stcharlesil.gov. Every effort will be made to allow for meeting participation. Notices of this meeting were posted consistent with the requirements of 5 ILCS 120/1 et seq. (Open Meetings Act).

 <p>CITY OF ST. CHARLES ILLINOIS • 1834</p>	AGENDA ITEM EXECUTIVE SUMMARY		Agenda Item number: 5.A
	Title:	Illinois Municipal Electric Agency (IMEA) Power Sales Contract	
	Presenter:	Peter Suhr, Director of Public Works	
Meeting: Government Services Committee		Date: June 24, 2024	
Proposed Cost: \$ <i>NA</i>		Budgeted Amount: NA	Not Budgeted: <input type="checkbox"/>
TIF District: None			
Executive Summary (if not budgeted, please explain):			
<p>Under the Illinois Municipal Electric Agency’s (“IMEA’s”) current Power Sales Contract with the City of St. Charles, IMEA has provided the City with reliable, affordable, and sustainable—and more importantly, stable—power and energy needs for several decades. The current Power Sales Contract is set to expire on September 30, 2035. In order to plan for and ensure that resources are in place to continue meeting our community’s long- and short-term power and energy needs at favorable prices and to continue meeting the obligations imposed on the City as a load serving entity by the Regional Transmission Organization that controls the region where our community is located, IMEA is requesting that St. Charles (as well as IMEA’s other Participating Members) continue its relationship as an all-requirements purchaser from IMEA beyond September 30, 2035, by approving and executing a new Power Sales Contract with IMEA.</p> <p>The IMEA Board of Director’s, including representation from St. Charles and 31 other IMEA Participating Members, approved the form of the new contract at the IMEA Board Meeting held on February 15, 2024, which reflects IMEA’s continued commitment to supply the City’s power and energy needs beyond 2035. The new Power Sales Contract is for the delivery period of October 1, 2035 through May 31, 2055. IMEA requests that the new contract be executed by the City of St. Charles through signature by the St. Charles’s Mayor after approval by the City Council. The terms and conditions of the new contract is available through April 30, 2025. In order to determine the amount of resources needed to serve the loads of all Participating Members during the future delivery period, the IMEA Board of Directors has authorized holding the offer of the new contract open through April 30, 2025. It will not be offered beyond that date without further authorization from the IMEA Board of Directors.</p> <p>In order to make a make a responsible decision on this new IMEA Power Sales Contract Offer by April 30, 2025, City Staff will be providing presentations, facilitating discussions, answering questions and preparing information for your consideration over the next year.</p> <p>This month’s presentation will include representatives from the IMEA and will focus on the Power Sales Contract Offer.</p>			
Attachments (please list):			
*Power Sales Contract Between Illinois Municipal Electric Agency and the City of St. Charles, Illinois			
Recommendation/Suggested Action (briefly explain):			
For Presentation Only			

**POWER SALES CONTRACT
BETWEEN
ILLINOIS MUNICIPAL ELECTRIC AGENCY
AND THE
CITY OF ST. CHARLES, ILLINOIS**

This Contract entered into as of the ____ day of _____, 20____, by and between ILLINOIS MUNICIPAL ELECTRIC AGENCY (“IMEA” or the “Agency”), a body politic and corporate, municipal corporation and unit of local government of the State of Illinois, and the CITY OF ST. CHARLES, ILLINOIS (“Member”), a municipal corporation created and existing under the laws of the State of Illinois; the Agency and Member may also be referred to individually as a “Party” and collectively as the “Parties;” by executing this Contract, Member continues as a Participating Member of the Agency, and all references to “Participating Members” herein or in other IMEA Power Sales Contracts shall include Member unless the context expressly or by necessary implication requires otherwise;

W I T N E S S E T H:

WHEREAS, the Illinois Joint Municipal Electric Power Act (the “Act”) enables municipalities owning or operating electric utilities, which furnish retail electric service to the public to jointly plan, finance, own and operate electric generation and transmission facilities, as well as the acquisition of fuel for the generation of electric energy, through the creation and continued operation of the Agency; and

WHEREAS, pursuant to the Act, a group of such municipalities joined together to form the Agency to acquire and construct projects or participate in projects with investor-owned utilities, generation and transmission cooperatives and others which may be used or useful in the generation, production, distribution, transmission, purchase, sale, exchange or interchange of electric energy, and the Agency has operated in accordance with the Act since 1984; the Agency presently has 32 Members, each of which is currently a Participating Member; and

WHEREAS, under the Act Member is a municipality owning and/or operating an electric utility which furnishes retail electric service to the public and may enter into and carry out contracts and agreements for the purchase from the Agency of power supply and energy transmission services, power supply development services and other services; and

WHEREAS, in order to secure an adequate, reliable and economic long term supply of electrical power and energy for Member, the Agency and Member hereby enter into this Power Sales Contract under the terms of which the Agency will sell to Member and Member will purchase from the Agency all of Member’s power and energy requirements to meet the full service obligation of its service area, including all capacity obligations imposed by the applicable Regional Transmission Organization (“RTO”), and all delivery-related services, including but not limited to transmission and distribution services from transmission and wholesale distribution service providers and ancillary service requirements of the applicable RTO and/or its underlying Transmission Owners.

NOW, THEREFORE, for and in consideration of the premises and the mutual covenants and agreements set forth in this Contract, the Agency and Member agree as follows:

Definitions

When used herein, the following capitalized terms shall have the meanings ascribed to them below unless the context expressly or by necessary implication requires otherwise:

“Board of Directors” shall mean the corporate authority of the Agency with powers as provided in the Act.

“Bonds” shall mean any revenue bonds, notes and other evidences of obligations of the Agency issued under the provisions of the Act to finance any cost, expense or liability relating to the Power Supply System or service under the Power Sales Contracts.

“Bond Ordinance” shall mean any one or more ordinances, resolutions, indentures or other similar instruments of the Agency providing for the issuance of Bonds.

“Cost Causer;” “Cost Causation” shall mean the Participating Member that causes the Agency to incur an extra-ordinary expense or investment. Under the Cost Causation principle such costs are to be borne by those customers, including but not limited to Member and/or other Participating Members or other entities to whom IMEA provides service, who make a request or decision or otherwise require or cause the action to be taken by IMEA or one of its underlying power suppliers or transmission and/or distribution service providers, thereby causing the Agency to incur the extra-ordinary expense. For purposes of this definition, “extra-ordinary expenses” are any investment, cost or other expenditure or liability incurred, assumed by or imposed on the Agency: (1) that primarily benefit one Participating Member or a group of Participating Members or other entities to whom IMEA provides service directly, rather than providing a general benefit to all or a majority of Participating Members or the Agency as a whole; and (2) that are not or have not historically been of the type ordinarily shared between Participating Members. Costs are recognized as being caused by a service if the costs are brought into existence as a direct result of providing the service or facilities, or the costs are avoided if the service or facilities are not provided. The Board of Directors will make all final decisions on whether a cost item is an extra-ordinary expense and whether a Participating Member or group of Participating Members is or are Cost Causers for purposes of implementation of this and all other Power Sales Contracts, as well as any contracts entered into by the Agency to provide service that are excluded from the definition of Power Sales Contracts.

“Delivery Point” shall mean a presently existing metered connection or connections of IMEA’s or another party’s transmission or distribution system with Member’s transmission or distribution system as set forth in Schedule A or a new or modified connection as Member may request and IMEA or another party is willing to provide in the future. Schedule A shall be updated from time to time by the Agency to reflect any new or modified Delivery Points.

“Member” shall be the city, village or town executing this Contract.

“Member-Directed Resource” shall mean a resource that meets the requirements of this definition and the option in Section 2(b-1) for Member to self-direct one or more resources with nameplate ratings or contracted shares based on nameplate ratings not to exceed the percentage of the Member’s rolling 5-year average annual peak demand set forth in such Section or as otherwise approved by the Board of Directors to be used to serve the Member’s load. Any such resource shall be developed and/or contracted for by the Participating Member only after the Board of Directors formally approves the details of the project. Any such resource shall be located within the State of Illinois unless the Board of Directors approves otherwise. For purposes of this definition the term resource is limited to devices that produce, generate or otherwise create energy or that store energy for beneficial use at a different time that are powered by wind, solar thermal energy, photovoltaic cells or panels, biodiesel, landfill gas produced in Illinois, crops and untreated and unadulterated organic waste biomass, advanced nuclear technology or small nuclear reactors that generate clean energy, and batteries and other forms of energy storage. The term resource may be expanded to include any other such devices powered by other means if they would qualify under a current or future Illinois statute that addresses generating resources that are designated as renewable, carbon-free, net-zero, clean or other similar designation for energy for use in one or more Illinois programs, even if IMEA and/or its Participating Members would not be subject to such statute or qualify for such program due to their status as municipalities, municipal corporations or units of local government; provided however clean coal powered facilities, as defined in the Illinois Power Agency Act shall not be allowed as Member Directed Resources unless specifically approved by the Board of Directors of IMEA. The term resource may also be expanded to include additional types of devices powered by other means if approved by the Board of Directors.

The existing hydro-electric power resources that were owned and operated by the Cities of Rock Falls and Peru at the time of execution of this Agreement are specifically not included in the term Member Directed Resource.

“MISO” means Midcontinent Independent System Operator, Inc., or its successor.

“Participating Members” shall mean Member and those other members that are or hereafter become parties to Power Sales Contracts, as defined below.

“Party” shall mean a party to this Contract and its successors and permitted assigns.

“PJM” means PJM Interconnection, LLC, or its successor.

“Point of Measurement” shall mean any point at which metering equipment is located for purposes of measuring power and energy deliveries to Member as set forth in Schedule A hereof. Schedule A shall be updated from time to time by the Agency to reflect any new or modified Points of Measurement.

“Power Sales Contracts” shall mean this Contract and other contracts providing for the sale of power and energy by IMEA to the other Participating Members as amended from time to time (excepting therefrom the contracts entered into by the Agency and Participating Members for

power supplies which are specifically superseded by the Power Sales Contracts and any other contracts which the Agency by action of its Board of Directors designates as being excepted from being within the definition of Power Sales Contract).

“Power Supply System” shall be broadly construed to mean, encompass and include all Projects and all electric production, transmission, distribution, conservation, load management, general plant and related facilities, equipment or property, and any mine, well, pipeline, plant, structure or other facility for the development, production, manufacture, storage, transportation, fabrication or processing of fossil, nuclear or other fuel of any kind or any facility or rights with respect to the supply of water, in each case for use, in whole or in major part, in any of the Agency’s generating plants, now existing and hereafter acquired by lease, contract, purchase or otherwise or constructed by the Agency, including any interest or participation of the Agency in any such facilities or any rights to the output or capacity thereof, together with all additions, betterments, extensions and improvements to said Power Supply System or any part thereof hereafter made and together with all lands, easements and rights-of-way of the Agency and all other works, property or structures of the Agency and contract rights and other tangible and intangible assets of the Agency used or useful in connection with or related to said Power Supply System, including without limitation a contract right or other contractual arrangement for the long term or short term interconnection, interchange, exchange, pooling, wheeling, transmission, purchase or sale of electric power and energy and other similar arrangements with entities having generation and transmission capabilities and located within or without the State of Illinois. Power Supply System shall not include (1) any properties or interest in properties of Member, except with respect to any contract rights the Agency may have in such properties pursuant to any contract between Member and the Agency other than this Contract, and (2) any properties or interest in properties of the Agency which the Board of Directors determines shall not constitute a part of the Power Supply System for the purposes of the Power Sales Contracts with the Participating Members.

“Project” means (i) any plant, works, system, facility, and real and personal property of any nature whatsoever, together with all parts thereof and appurtenances thereto, used or useful in the generation, production, distribution, transmission, purchase, sale, exchange or interchange of electrical energy and in the acquisition, extraction, conversion, transportation, storage or reprocessing of fuel of any kind for any such purposes, or (ii) any owned or contracted interest in, or right to the use, services, output or capacity, of any such plant, works, system or facilities.

“Prudent Utility Practice” shall mean, any of the practices, methods and acts which, in the exercise of reasonable judgment and in light of the facts (including, but not limited to, any practices, methods and acts engaged in or approved by a significant portion of electrical utility industry prior thereto) known at the time the decision was made, could have been expected to accomplish the desired result at reasonable cost consistent with reliability, safety and expediency. In applying the standard of Prudent Utility Practice to any matter under this Contract, equitable considerations shall be given to the circumstances, requirements and obligations of each of the Parties, and there shall be taken into account the fact that the Agency and Member are both political subdivisions and municipal corporations of the State of Illinois with prescribed statutory powers, duties and responsibilities. Prudent Utility Practice is not intended to be limited to the optimum practice, method or acts to the exclusion of all others, but rather to a spectrum of possible practices, methods or acts which could have been expected to accomplish the desired result at reasonable

cost consistent with reliability, safety and expediency. Prudent Utility Practice includes due regard for manufacturer's warranties and the requirements of governmental agencies which have jurisdiction.

"Rate Schedule" shall mean the rate schedule or schedules setting forth the rates and charges for payments by Participating Members, including Member, for services rendered by the Agency pursuant to the Power Sales Contracts. The existing Rate Schedules are Schedule B and Schedules B-2, B-4, B-6 and B-7. The Rate Schedules may be revised from time to time by the Agency and/or new schedules may be adopted by the Agency, all in accordance with and in the manner provided for in Section 3 of this Contract, including, without limitation, any amendment, change, deletion or addition to any of the rates and charges, billing components, terms or conditions, or any adjustment set forth therein, including, but not limited to, amending the billing demand provision to impose a minimum demand whether or not based on prior demand measurements, which schedules may be applicable to any one or more Participating Members.

"Revenue Requirements" shall mean all costs and expenses paid or incurred or to be paid or incurred by the Agency resulting from the ownership, operation, maintenance, termination, retirement from service and decommissioning of, and repairs, renewals, replacements, additions, improvements, betterments and modifications to, the Power Supply System or otherwise relating to the acquisition and sale of power and energy, transmission, load management, conservation or related services hereunder and performance by the Agency of its obligations under the Power Sales Contracts for Participating Members, including, without limitation, the following items of cost:

- (1) payments of principal of and premium, if any, and interest on all Bonds issued by the Agency and payments which the Agency is required to make into any debt service reserve fund or account under the terms of any Bond Ordinance or other contract with holders of Bonds; provided, however, that Revenue Requirements shall not include any principal of or premium, if any, or interest on Bonds due solely by virtue of the acceleration of the maturity of such Bonds;
- (2) amounts required under any Bond Ordinance to be paid or deposited into any fund or account established by such Bond Ordinance (other than funds and accounts referred to in clause (1) above), including any amounts required to be paid or deposited by reason of the transfer of moneys from such funds or accounts to the funds or accounts referred to in clause (1) above including any rate stabilization fund or account;
- (3) amounts which the Agency may be required to pay for the prevention or correction of any loss or damage to the Power Supply System or for renewals, replacements, repairs, additions, improvements, betterments, and modifications which are necessary to keep any facility of the Power Supply System, whether owned by the Agency or available to the Agency under any contract, in good operating condition or to prevent a loss of revenues therefrom;
- (4) costs of operating and maintaining the Power Supply System and of producing and delivering power and energy therefrom (including, without limitation, fuel costs,

administrative and general expenses and working capital, for fuel or otherwise, regulatory costs (including but not limited to wholesale rate case intervention costs), insurance premiums, and taxes or payments in lieu thereof) not included in the costs specified in the other items of this definition, costs of power supply and demand-side planning and implementation associated with meeting the Agency's power supply obligations and costs of load management and conservation;

- (5) the cost of any electric power and energy purchased for resale by the Agency to the Participating Members and the costs of transmission, scheduling, dispatching and controlling services for delivery of electric power and energy under the Power Sales Contracts for Participating Members;
- (6) all costs incurred or associated with the salvage, discontinuance, decommissioning and disposition or sale of properties;
- (7) all costs, settlements and expenses relating to injury and damage claims asserted against the Agency;
- (8) any additional cost or expense not specified in the other items of this definition imposed or permitted by any regulatory agency or which is paid or incurred by the Agency relating to the Power Supply System or relating to the provision of services to Participating Members (including any amounts to be paid into any reserve account established by the Agency under the terms of any Bond Ordinance for the payment of Revenue Requirements in the future and any provision for depreciation) which is not otherwise included in any of the costs specified herein;
- (9) amounts required to be paid by the Agency including:
 - (i) any reserves the Agency shall determine to be necessary for the payment of those items of costs and expenses referred to in this definition to the extent not already included in any other clause of this definition; and
 - (ii) additional amounts which must be realized by the Agency in order to meet the requirement of any rate covenant with respect to coverage of principal and interest on Bonds contained in any Bond Ordinance or contract with holders of Bonds or which the Agency deems advisable in the marketing of its Bonds or under any contract to which it is a party.

“Regional Transmission Organization” or “RTO” shall mean the entity designated by the Federal Energy Regulatory Commission (“FERC”) to direct operation of the regional electric transmission grid in its area, including the dispatching of generating resources, and that controls the wholesale electric markets for its area. The RTOs that currently control the areas where IMEA's Participating Members are located and where the generating resources owned by or under contract to IMEA are located or into which they are pseudo-tied are Midcontinent Independent System Operator, Inc., or its successor (“MISO”), and PJM Interconnection, LLC, or its successor (“PJM”). At the execution of this Agreement, for those Participating Members that are served by

Commonwealth Edison Company for transmission service, the currently applicable RTO is PJM. For those Participating Members that are served by Ameren Illinois Company, City of Springfield CWLP, Southern Illinois Power Cooperative, or Hoosier Energy Rural Electric Cooperative, Inc., the currently applicable RTO is MISO. Throughout the duration of this Agreement the applicable RTO is subject to change for reasons that are outside the control of the Agency and the Participating Members.

Section 1. Term

(a) Initial Term and Termination

This Contract shall take effect on the latter of the date of execution by the last party to sign hereon or the date specified by the Board of Directors in making the determination in Section 1(b) below. This Contract shall remain in effect for an initial delivery term commencing on October 1, 2035 (at the end of the then-current Power Sales Contract between Member and IMEA) and extending through and including May 31, 2055. The delivery term shall continue thereafter and run from year to year until terminated by five (5) years prior written notice.

(b) Conditions for Effectiveness of Contract

Notwithstanding any other provision herein, the Contract shall not become effective unless by April 30, 2025, or such later date as approved by the Board of Directors, (i) four (4) or more Participating Members with the combined Agency estimated coincident firm purchased power annual peak demand in 2022 of 50 MW or more have entered into new, renewed or extended Power Sales Contracts, or (ii) the Board of Directors has determined the mix of Members signing new, renewed or extended Power Sales Contracts results in sufficient benefits or cost reductions to the Participating Members in which event the Power Sales Contracts shall become effective. The Agency shall provide the Participating Members with written notice within sixty days of any final decision by the Agency that the Contract is to become effective. In the event this Contract does not become effective, any contracts between the Agency and the Participating Members, which are otherwise superseded by this Power Sales Contract, including any such contract with Member, shall not terminate but shall continue in full force and effect throughout its term.

(c) Commencement of Service and Cancellation of Existing Contract

Service to Member under this Contract shall commence on October 1, 2035.

All other power supply or transmission contracts between Member and any entity other than the Agency shall be terminated or assigned by Member to the Agency no later than the date upon which the Agency commences service to Member as provided in this subparagraph or such other action is taken as mutually agreeable by the Agency and Member.

If Member is taking power or transmission service from a supplier other than IMEA on such commencement date, the providing of power by IMEA shall commence only if that Member's obligations from such supplier have ceased pursuant to an assignment or termination of an existing contract.

Section 2. Purchase, Sale and Delivery of Electricity

(a) Sale and Purchase

The Agency agrees to provide and sell and Member agrees to take and pay for all of the electric power and energy required to meet the full service obligation of Member's service area during the term of this Contract and utilized in the operation of its municipal electric system, including all capacity obligations imposed by the applicable RTO, and all delivery-related services, including but not limited to transmission and wholesale distribution services from transmission and/or wholesale distribution service providers and ancillary service requirements of the applicable RTO and/or its underlying Transmission Owners. Batteries or other energy storage devices are a substitute for generation and are deemed to be power supply for purposes of the obligation to purchase Member's full requirements of electric power and energy under this subsection (a) and the restrictions on obtaining electric power and energy from other sources under subsection (b) of this Contract. Batteries or other energy storage devices may be used in an election for a Member Directed Resource in Section 2(b-1) below.

Under the previous Power Sales Contract, certain Participating Members, namely Peru and Rock Falls, each exercised an option to install, own and operate a hydro-electric power plant and to self-supply a portion of its load therefrom. That option is no longer available. Such Participating Members may continue to self-supply such portion of their respective loads subject to such reasonable terms and conditions and such rates and charges as the Board of Directors shall approve so long as the Participating Member owns and operates the existing hydro-electric plant. Such Participating Members shall bear all costs of ownership and operation of their hydro-electric plant and shall pay all such rates and charges established by the Board of Directors.

(b) Restrictions on Other Sources

Except as provided in the subsections of this Section 2 or in any policy, program or directive of the Agency approved and authorized by affirmative vote of the Board of Directors, Member shall not obtain electric power and energy required to meet the full service obligation of Member's service area and/or for the operation of its electric utility system from any other source; provided, however, if Member is required by law to purchase power and/or energy from a small power production facility, a cogeneration facility or other facility, Member shall immediately inform the Agency of such requirement whereupon Member and the Agency shall use their

best efforts to arrange for such purchases to be made by the Agency. If such arrangements cannot be made, then Member shall make the required purchase and sell the power and energy to the Agency at the same price and on the same terms and conditions under which it was purchased by Member, unless Member agreed to pay more than required by the law that required the purchase of power and/or energy from such facility, in which case the Agency shall pay Member an amount reasonably calculated to match what the required amount should have been. Member hereby appoints the Agency to act as its agent in all dealings with the owner or operator of any such facility from which power or energy is to be purchased by the Agency directly or indirectly and in connection with all other matters relating to any such purchase and agrees unless ordered to do so by a court of competent jurisdiction not to make any such purchase at prices or on terms and conditions not approved by the Board of Directors.

If Member has an existing partial waiver from FERC of the PURPA requirement to purchase excess power and energy from Qualifying Facilities where that obligation has been undertaken by the Agency as of the effective date of this Contract, such waiver shall be maintained for the term and any extended term of this Contract. Member shall not take any steps or cooperate with steps taken by any others to withdraw or terminate such waiver. If Member does not have an existing partial waiver from FERC of the PURPA requirements and assignment thereof to the Agency as of the effective date of this Contract, Member shall cooperate with the Agency in seeking such waiver, and if granted such waiver shall be maintained for the initial term and any extended term of this Contract. Member shall not take any steps or cooperate with steps taken by any others to withdraw or terminate such waiver.

(b-1) Member-Directed Resources Option

Member and the other Participating Members shall each have the option, but not the obligation, to elect to self-direct a portion of the power supply to serve their load from qualifying generating resources or energy storage devices. The maximum amount of such election shall be ten percent (10%) of Member's rolling 5-year average annual peak demand based on the nameplate capability of, or the contracted share of the nameplate of the resource. The Board of Directors may approve a greater percentage or amount in the future. Resources put in place by Member under one or more offerings, policies or programs of IMEA, other than this Member-Directed Resource Option, and IMEA-sponsored projects located within Member's service area will not count against the above percentage. The resource shall be located in the same delivery zone of the RTO region or Balancing Authority area as the Member or Participating Member making the election, or if approved by the Board of Directors may be located in the same zone of the RTO region or Balancing Authority area as other Participating Members, subject to such reasonable cost allocation as the Board of Directors shall require.

Under this option, Member and other Participating Members shall have the opportunity to contract for, develop, own and operate qualifying resources that would be directly connected to the Participating Member's distribution system, or alternatively to contract with a developer/provider for a portion of a large qualifying resource connected elsewhere on the regional transmission system. All power and energy to serve the total requirements load needs of such Participating Members would continue to be exclusively provided by IMEA, however, subject to the Participating Member's ability to negotiate and enter into ownership or long-term contractual commitment with one or more projects on its distribution system, or power purchase agreements with an eligible energy provider, and subject to reasonable approval by the Board of Directors, Participating Members will be able to commit to a project or a power purchase agreement and thereby self-direct the type of qualifying resource used to serve a portion of its load. The remainder of the full requirements of Participating Members electing this option shall be met under the Rate Schedules that recover the portion of the Revenue Requirement associated with the Agency's socialized resource portfolio. Such resources must be dedicated to IMEA under an agreement similar in concept to the Capacity Purchase Agreements pursuant to which Participating Members have historically dedicated their behind the meter generation to IMEA.

Member shall not use a Member Directed Resource to peak shave. Member shall still be required to purchase its full requirements from IMEA. The Member Directed Resource shall become part of the IMEA resource portfolio for serving Member. Member shall pay all costs associated with the Member Directed Resource and shall be credited or paid back for the actual RTO clearing price for capacity and day-ahead price for energy and any actual ancillary services revenues received by IMEA for the attributes used by IMEA from the Member Directed Resource to serve the participating Member. Member shall own any renewable energy or similar credits, but if they decide to sell them, rather than retire them, the Agency shall have a right of first refusal to purchase them. The Board of Directors would determine the equitable allocation of non-power supply Agency costs among Participating Members electing the option and making binding commitments to self-directed resources and those that elect to be served only from the socialized resource portfolio in the Rate Schedules to be developed and approved.

(c) Shortages

In the event that the Agency is not able to supply all of the power and energy requirements of its Participating Members because of an event of Force Majeure as defined in Section 2(d) or because of an outage of all or any part of Agency's Power Supply System or because of an event beyond Agency's control, and after such reasonable notice as the Agency may be able to give, the Agency shall allocate the power and energy available to it during any billing period among the Participating Members on a pro rata basis in accordance with the Participating Members' respective power and energy requirements supplied by the Agency during the corresponding billing period of the preceding calendar year. Where a Participating

Member did not purchase power and energy from the Agency during the corresponding billing period of the preceding calendar year, that Participating Member's purchases during such billing period from its supplier replaced by the Agency shall be used.

Although the Agency agrees to use its best efforts to avoid a shortage in supply, during any period when the Agency is unable to supply all of the Participating Member's electric power and energy requirements, Member shall be permitted to acquire from other sources the amount of electric power and energy which is not supplied by the Agency; provided, however, that at such time as the Agency is again able to supply all of Member's electric power and energy requirements, Member shall be required to take and pay for such electric power and energy in accordance with the provisions of this Contract. Before entering into any arrangement to acquire power and energy from any source other than the Agency for any period in excess of 48 hours, Member will notify and consult with Agency as to the terms and length of such purchases and obtain Agency's consent before contracting for such supply, which consent shall not be unreasonably withheld.

(d) Continuity of Service

The Agency shall employ its best efforts, in accordance with Prudent Utility Practice, to provide a constant, adequate and uninterrupted supply of power and energy to Member (except where Member is purchasing interruptible or curtailable power or non-firm energy from the Agency under a separate interruptible, curtailable or non-firm rate schedule adopted by the Board of Directors) and shall seek to restore service promptly and diligently on any interruption, but the Agency does not guarantee that service hereunder will be uninterrupted or at all times constant.

If the supply of electric power and energy to Member hereunder shall fail, be interrupted, be reduced, or become defective through an event of Force Majeure, which shall include but not be limited to an act of God, nature, common enemy, failure of any power and energy or transmission service supplier of the Agency or any public authority, or because of accident, riot, insurrection, war, explosion, labor dispute, fire, flood or prudent actions taken to prevent or limit the extent or duration of disturbances of service on Agency's system, or if one or more of its suppliers, or that of systems through which electric service is rendered to the Agency or Member is interrupted, or for any other cause beyond the reasonable control of the Agency, the Agency shall not be liable for damages caused thereby and such events shall not constitute a breach of the Agency's obligations under this Contract. No cause or contingency, however, including any failure of the Agency to supply electric power and energy to Member for any period because of any of the aforesaid conditions, shall relieve Member of its obligation to make all payments to the Agency required by this Contract, when due, for power and energy supplied by the Agency during any period.

The Agency or its underlying transmission and/or wholesale distribution service provider may interrupt service hereunder as necessary for repairs to, or changes of, equipment or facilities needed to provide service hereunder, or for installation of new equipment or facilities, but only for such reasonable times as may be unavoidable, and to the extent possible, with reasonable advance notice to, and in coordination with, Member.

Section 3. Rates and Charges

Member shall pay the Agency for all power and energy and other services furnished under this Contract from the date that service commences as provided in Section 1(c) at the rates and on the terms and conditions set forth in the Rate Schedule(s), as the Rate Schedule(s) may be changed and supplemented by the Board of Directors from time to time.

The Board of Directors shall establish and maintain its rates and charges under its Power Sales Contracts with its Participating Members to provide revenues which are sufficient, but only sufficient, together with other available revenues of the Agency, to cover the estimated Revenue Requirements of the Agency. In determining rates and charges necessary to produce sufficient revenues, the Agency shall take into account any anticipated (or actual) delinquency or default in payments by Participating Members. The Agency's rates and charges for power supply for the portion of a Participating Member's full requirements not met through the self-directed resource option discussed below and for all other bundled aspect of electric service to the Participating Members shall be set generally on a uniform postage stamp basis so as to recover all production and transmission costs in providing service to all Participating Members; provided, however, that the rates and charges may vary between Participating Members to reflect contracts with Participating Members having varying lengths of terms and/or contracts executed at different times, differences in delivery voltage level, delivery facilities costs, different load factors, and variances in service provided to Participating Members which enter into Capacity Purchase Agreements and Participating Members which do not (including a phase-in of postage stamp rates to reflect load factors of certain Participating Members) and may contain ratchets, premiums, load factor requirements and other provisions which affect all Participating Members or only Participating Members which obtain a portion of their requirements from any other source. Rates and charges may also vary between Participating Members based on the Cost Causation principle if the Board of Directors determines that Member or another Participating Member is a Cost Causer of an extra-ordinary expense or investment as defined herein above.

Notwithstanding the foregoing, the Board of Directors shall establish and maintain and may revise, amend or change from time to time in the future backup service rates for Participating Members with a hydroelectric plant and/or may charge such Participating Member for all actual costs incurred by IMEA attributable to the operation of said hydro-electric power plant, or the failure thereof, and/or costs incurred by IMEA due to the accreditation of said plant. In addition, the Board of Directors may establish separate Rate Schedules or may approve separate rate provisions in an Addendum to the Power Sales Contract for Participating Members that elect to have a portion of their full requirements met (as authorized herein) on a contracts-basis, rather than the standard socialized basis, or the Agency and one or more Participating Members, including Member, may execute Addendums to their Power Sales Contracts, so-as-to directly commit to a

portion of the output from individual eligible resource power purchase agreements or ownership arrangements. Rates and charges for the portion of the Participating Member's requirements being met under such Rate Schedules or Addendum will vary from Participating Members served exclusively or in different proportions from the socialized resource portfolio. The remainder of the Participating Member's full requirements shall be met under the Rate Schedules that recover the portion of the Revenue Requirement associated with the socialized resource portfolio.

The methodology for establishing rates and charges used by the Agency may be modified by the Agency from time to time.

The Agency shall place into effect initial rates and charges applicable on commencement of service by the Agency to the Participating Members under this new Power Sales Contract and thereafter at such intervals as it shall determine appropriate, but in any event not less frequently than once in each calendar year, the Agency shall review and, if necessary, revise its rates and charges under the Power Sales Contracts, to ensure that the rates and charges thereunder cover the Agency's estimated Revenue Requirements.

The Agency's rates and charges hereunder may include one or more automatic adjustment clauses which may be modified or changed periodically to ensure that the Agency is protected against changing cost of fuel, purchased power, taxes, and other costs of service. The automatic adjustment clauses may use estimated costs, with a later true-up to actual costs. The Agency may place an automatic adjustment clause in effect to recover costs from the date they were incurred upon thirty (30) days' notice to Member and shall provide Member supporting information which need not be the same detailed analysis as for base rate changes.

In connection with any revision of the Rate Schedule, except as to automatic adjustment clause rate changes, the Agency shall cause a notice in writing to be given to all Participating Members which shall set out any proposed revision of the Rate Schedule with the effective date thereof, which shall be not less than sixty (60) days after the date of the mailing of the notice, and which shall be accompanied by an analysis of the estimated Revenue Requirements for which the Rate Schedule is proposed to be revised and the derivation of the proposed rate. Member agrees to pay for electric power and energy made available by the Agency to it hereunder after the effective date of any revisions in the Rate Schedule in accordance with the Rate Schedule as so revised.

Section 4. Payment Obligation

(a) Nature of Obligation to Pay.

The obligation of Member to pay all rates and charges established by the Agency under Section 3 of this Contract for the delivery of power and energy and for other services provided by the Agency shall not be subject to any reduction, whether by offset, counterclaim, recoupment or otherwise, and shall not be otherwise conditioned upon the performance by the Agency of its obligations under the Power Sales Contracts for Participating Members or any other instrument or agreement. It is expressly understood that Member shall be obligated to pay all rates and

charges imposed for power and energy supplied hereunder regardless of whether any one or more projects or other facilities of the Agency constructed, purchased or undertaken to provide service hereunder are operating or operable at any time; provided, however, that except as provided by this subsection (a) nothing herein shall be construed to prevent or restrict Member from asserting any rights which it may have against the Agency under this Contract or under any provision of law, including the institution of legal proceedings for specific performance or recovery of damages.

(b) Limitation on Obligation to Pay.

All payments made by Member for services hereunder shall be made as operating expenses from the revenues of Member's electric utility system, or any integrated utility system of Member of which, Member's electric utility system may be a part, and from other funds of such system legally available therefor and shall be in addition to, and not in substitution for, any other payments, whether on account of dues or otherwise, owed by Member to the Agency. Member shall not be required to make payments under this Contract except from the revenues of Member's electric system, or other integrated public utility system of which the electric system is a part, and from other funds of such system legally available therefor. In no event shall the Agency, or any other person or entity, including any person or entity to which revenues under this Contract have been assigned or pledged, be entitled to look to, or seek to recover from, any other revenues, monies or property of Member for payment of any amounts due hereunder. The obligation of Member to make payments for services hereunder shall not constitute a general obligation of Member and shall not constitute indebtedness of Member for the purpose of any statutory limitation and Member shall not be required to make such payments from any source other than the revenues and funds referred to in the first two sentences of this paragraph. In no event shall Member be required to make payments under this Contract from tax revenues or to impose any new tax or adjust any existing tax for such purpose.

Member's electric utility system shall be deemed to be a part of an integrated utility system for purposes of this Contract if the revenues of the electric utility system (i) are commingled with the revenues of one or more utility systems owned by Member, or (ii) are utilized to pay operating expenses of Member's electric utility system and one or more other utility systems owned by Member, or (iii) are pledged to secure any bonds or other evidences of indebtedness issued to finance one or more utility systems owned by Member. For purposes of this paragraph, the term "commingled" shall not be deemed to include the keeping of funds in one bank account so long as such funds are separately accounted for on the books and records of Member. An integrated utility system shall not be deemed to exist hereunder merely (i) because Member's electric utility and another utility of Member are managed by the same commission or other public body, have common employees or facilities, the costs of which are shared, or undertake joint projects or (ii) where

surplus funds from one utility which are legally available for transfer to the general fund of Member are transferred or loaned to the other utility.

Section 5. Billing

(a) Billing Procedure

The calendar month shall be the standard period for all billing and settlements under this Contract. The Agency may, from time to time, adopt another standard period for billing and settlements. It is understood that, as soon as practicable after the end of each billing period, IMEA shall prepare and transmit a detailed statement to Member which shows amounts due from Member.

Billing period statements for charges under this Contract shall be rendered by IMEA in the month following the billing period in which the charges were incurred. Each payment shall be due, and payment of each bill shall be made to IMEA by electronic transfer or such other means as shall cause payment to be available for the use of IMEA on the first banking day following the tenth (10th) day after the date of invoice. Interest on unpaid amounts shall accrue daily at the then current published prime interest rate per annum as published in the Wall Street Journal or its successor to the extent permitted by law from the due date of such unpaid amount and until the date paid.

(b) Billing Disputes

In the event that Member takes exception to a bill rendered by the Agency, Member shall pay the disputed amount and promptly inform the Agency in writing of the basis for the dispute. Member will not be entitled to any adjustment on account of any disputed charges which are not brought to the attention of the Agency in the manner herein specified within thirty (30) days of when Member first learns of the basis for the dispute.

Within thirty (30) days of receipt of the notice of the dispute, including a written explanation by Member of the nature of the dispute, the Agency shall respond to Member's protest in writing. In the event it is determined that all or part of the disputed payment was not properly payable, then the Agency shall refund such amount together with interest thereon from the date the amount was paid until the refund is made at an annual rate equal to that established pursuant to subsection (a) above.

In addition, any billing adjustment sought by Member which is related to the Agency obtaining a similar billing adjustment from any transmission or power or energy supplier to the Agency shall be dependent upon the Agency obtaining a corresponding adjustment from its supplier. The Agency shall pursue any such corresponding adjustment with due diligence, provided that the Agency considers such adjustment to be appropriate.

(c) Service Discontinuance and Contract Termination for Failure to Pay.

Whenever any amount due remains unpaid after the due date, the Agency may take all steps available to it under applicable law to collect such amount and, subject to any applicable regulatory requirements and any applicable requirements of the applicable Regional Transmission Organization, after giving thirty (30) days advance notice in writing of its intention to do so, suspend and discontinue service hereunder if the amount remains unpaid at the end of said 30-day period. Whenever any amount due remains unpaid for one hundred twenty (120) or more days after the due date and after giving thirty (30) days advance notice in writing of its intention to do so, the Agency may terminate this Contract. No such discontinuance or termination shall relieve Member from liability for payment for electric power and energy furnished hereunder or made available to Member where Member has an obligation to take such power and energy and has not, or for damages suffered by the Agency, or any other Participating Members, as a consequence of default by Member. The Agency may, either at law or in equity, by suit, action, mandamus, or other proceedings, enforce and compel the performance of the covenants, agreements, and obligations of Member under this Contract to be performed by Member or any officer or official thereof, including but not limited to an action for specific performance, injunction and/or for damages for the remaining term of this Contract.

(d) Partial Month Bill

In the event that the initial or final month's service under this Contract is for less than a full month's service, Member shall be billed for such partial month. The bill for such fractional part of a billing period shall be proportionately adjusted by IMEA in the ratio that the number of hours that electric service is furnished to Member (in such fractional billing period) bears to the total number of hours in the billing period involved. Except as provided in this subsection with respect to fractional billing periods at the beginning and end of service, there shall be no proration of demand charges under the Rate Schedule for any billing period during any part of which power is made available to Member.

Section 6. Delivery Conditions and Metering

(a) Electric Characteristics

The electric service furnished under this Contract shall be 60 Hertz, three phase alternating current and shall be delivered to the Delivery Points and metered by the Agency, or its designee, at such location or locations and such voltages as are shown on Schedule A. The Delivery Points, the Points of Measurement, the Delivery Voltage, and Special Conditions of Service shall be as set forth in Schedule A which may be amended by the Agency from time to time to include such other Delivery Points and Points of Measurements and other provisions as

may be established by the Agency. In the event the Agency and Member agree on the need for an additional Delivery Point, the Agency will exercise Prudent Utility Practice to obtain it. When electricity is measured at more than one (1) Point of Measurement, the maximum total coincident demand of Member's system shall be determined by combining the recorded demand at each Point of Measurement during the same 60-minute interval. Member shall maintain its system power factor in accordance with the requirements of the underlying transmission and/or distribution service provider and with Schedule A as it may be amended from time to time by the Agency.

Member shall install, own and maintain or cause to be installed and maintained at Delivery Point(s) established pursuant to this Contract or elsewhere at a location mutually agreeable to the Parties hereto such facilities as may be necessary to protect the system of the delivering entity, including such transformation, control, switching and protective equipment as meets Prudent Utility Practice and the requirements of the underlying transmission and/or wholesale distribution service provider(s).

Member shall provide or cause to be provided and maintained suitable protective devices on its system to prevent any loss, injury or damage that might result from single phasing conditions or any other fluctuation or irregularity in the supply of electrical power and energy. IMEA shall not be liable for any loss, (including Member electric system revenues), opportunity costs, injury or damage resulting from a single phasing condition or any other fluctuation or irregularity in the supply of energy which could have been prevented by use of such protective device.

(b) Responsibility for Facilities

The Agency's undertaking shall be complete upon the delivery of electric power and energy to the Delivery Points. Beyond the Delivery Points, except as the Parties may agree in writing otherwise, Member shall furnish and maintain all devices, equipment and appliances, including but not limited to, control, protection, regulation and load shedding equipment, required to utilize safely and efficiently the power and energy delivered by the Agency.

If load growth or other power supply requirements or construction of facilities necessitate modifying, upgrading or relocating the existing Delivery Points on the effective date or the then-existing Delivery Point(s) or adding new Delivery Point(s), unless otherwise agreed between the Agency and Member, Member shall be responsible for construction of, and all of the costs of, the new, modified, upgraded or relocated Delivery Point(s), except that the Agency shall pay the reasonable costs actually incurred for the necessary metering equipment. The location of any new or relocated Delivery Point shall be subject to approval by the Agency, which approval shall not be unreasonably withheld. Upon request by Member, the Agency may (but shall not be obligated to) provide initial funding for the construction of new Delivery Points, subject to the requirement that Member

reimburse the Agency therefor in the manner and timeframe determined by the Agency. In such event the cost thereof, with interest and Agency project management costs attributable to said Member requested service, shall be reimbursed by Member through lump-sum payment(s) or recovered from Member through the Agency's charges, all within a reasonable timeframe and as determined by the Agency.

Member shall provide, free of charge, suitable and sufficient space on its premises, including but not limited to all structures, enclosures and access facilities, for all electric facilities reasonably necessary for the Agency to deliver and measure power and energy to Member hereunder and shall grant to the Agency, or the Agency's designee, a right-of-way over Member's premises and property for the construction and maintenance of all such facilities as shall be placed thereon which are reasonably necessary for the provision of service to Member.

The design and operating characteristics of Member's electrical equipment at the Delivery Points shall be coordinated with the Agency and shall be subject to the Agency's approval, which approval shall not be unreasonably withheld.

(c) Metering

All electric power and energy delivered under this Contract shall be measured as to real and reactive demand and energy by suitable metering equipment, including any needed area interchange, totalizing or remote metering equipment, located, furnished, installed, maintained and tested by the Agency or its designated power or transmission supplier. All energy will be measured at the service voltage at the Delivery Point by IMEA or the delivering party. In cases where IMEA or the delivering party elects to measure at a secondary voltage, IMEA or delivering party may at its option adjust the reading to a primary basis by the use of compensating meters.

It is understood that in some instances the metering equipment may not be located at the Delivery Points. All meters shall be kept under seal, such seals to be broken only when the meters are to be tested and maintained.

Member shall provide at no cost to IMEA or delivering party suitable space, if necessary, for the installation of meters and metering equipment at the Delivery Points or Points of Measurement.

The Agency's meters or the meters of the underlying transmission or wholesale distribution service provider shall measure and record the electrical power and energy furnished hereunder at such Point of Measurement. Such metering equipment shall provide a continuous record of the 60-minute integrated total demand to Member at such Point of Measurement during each billing period throughout the term of the Contract. Such records shall be available at all

reasonable times to authorized agents of Member. Meter readings will be adjusted for losses where appropriate.

(d) Meter Testing

The Agency or the underlying transmission and/or wholesale distribution service provider shall test and calibrate meters or cause meters to be tested and calibrated by comparison with accurate standards at intervals not to exceed the periodic test schedule approved by the Illinois Commerce Commission for entities subject to its authority for similar meters. The Agency shall make or cause to be made special meter tests at any time at Member's request. The cost of all tests shall be borne by the Agency, except that if any special meter test made at Member's request shall disclose that the meters are recording accurately, Member shall reimburse the Agency for the cost of such tests. Meters registering not more than 2% above or below normal shall be deemed to be accurate. The readings for any meter which shall have been disclosed by test to be inaccurate shall be corrected in accordance with the percentage of inaccuracy found by such test for the period, not exceeding ninety (90) days, that such inaccuracy is estimated to have existed. Should any meter fail to register, the electric power and energy delivered during such period of failure shall for billing purposes be estimated by the Agency and Member from the best information available. The Agency shall notify Member or cause Member to be notified in advance of the time of any meter test so that Member's representative may be present at such meter test.

Testing procedures may be changed by the Agency from time to time to reflect current electric industry practice and such change shall be incorporated by the Agency within Schedule B. Member shall be entitled to install its own backup parallel metering.

(e) Limited Agency Relationship

Member hereby designates IMEA to be the agent for Member for the limited purpose of: (i) planning for and meeting requirements and obligations imposed on Member by the applicable RTO in connection with its status as a load serving entity or other market participant activities in the wholesale electricity markets of the applicable RTO; (ii) purchase of transmission services and wholesale distribution services in connection with the delivery of power and energy to serve Member's load, including any connection, interconnection, construction or related agreement with or tariff of the owner and/or operator of the transmission and/or distribution system to which Member's system is directly or indirectly connected; (iii) negotiating, executing and implementing any agreements with the owners of the transmission and distribution systems to which Member's distribution system is physically connected and the applicable RTO regarding transmission and distribution service necessary to deliver the power and energy to be supplied hereunder to Member and agreements regarding the connection of the respective systems and upgrades or new connections thereof; and (iv) managing any power

purchase agreement or ownership arrangement entered into by Member in connection with an election under the Member-Directed Resources option. IMEA agrees to act on Member's behalf as such agent.

Section 7. Additional Covenants of the Agency.

The Agency covenants and agrees as follows:

(a) Performance

The Agency shall perform all of its obligations under this Contract promptly with due diligence in accordance with Prudent Utility Practice. The Agency shall employ its best efforts to provide adequate, reliable and reasonable cost electric service to Member under this Contract. To this end the Agency shall plan to have such power and energy and such transmission resources available by contract or otherwise as are necessary and desirable to meet the requirements of all Participating Members, including reasonably anticipated growth as projected by the Agency.

The Agency will perform or cause to be performed services, including but not limited to, (i) coordinating and monitoring the investigating, studying, planning, engineering, designing, financing, installing, constructing, acquiring, operating, maintaining, retiring, decommissioning or disposing of any part of its Power Supply System; (ii) issuing and selling Bonds; (iii) planning, undertaking, coordinating and monitoring the economic dispatching and scheduling of power and energy to the Participating Members but only to the extent that the Agency possesses at the time its own load control capability; and (iv) providing such other services as the Agency from time to time shall determine to be appropriate or necessary to provide to Member and enable Member to utilize an adequate, reliable and economic supply of power and energy.

The duration and term of all contracts entered into by the Agency for the acquisition of facilities or for the acquisition of power and energy shall be determined by the Agency in light of its analysis of the power markets and determination of an appropriate mix of short, intermediate and long-term resources.

(b) Enforcement of Obligations

The Agency shall promptly collect all amounts due and enforce all provisions of the Power Sales Contracts and shall at all times maintain and promptly and vigorously enforce its rights against any Participating Member which does not pay sums when due or perform the contract obligations pursuant to the provisions of Section 5 of such Participating Member's Power Sales Contract. Likewise, IMEA will collect all amounts due and vigorously enforce its rights under and all provisions of any other contracts with any other purchasers.

(c) Records and Accounts

The Agency shall keep accurate records and accounts of its operations in connection with this Contract in accordance with generally accepted accounting practices. The Agency's books and records shall be audited independently once a year. Member shall have the right at any reasonable time to examine and audit such records at Member's expense.

(d) Prudent Utility Practice

The Agency shall, in accordance with Prudent Utility Practice: (i) at all times operate and conduct its business in connection with this Contract in an efficient manner, (ii) maintain the Power Supply System in good repair, working order and condition, and (iii) from time to time make all necessary and proper repairs, renewals, replacements, additions, betterments and improvements with respect to the Power Supply System so that at all times the business carried on in connection therewith shall be properly conducted.

(e) Other Services

The Agency may (but shall not be obligated to) provide such other services to Member as Member may request, including but not limited to, maintenance of Member's system, billing of Member's customers, safety training, load management, and meter reading. For any such service so provided by the Agency, the Agency will adopt charges therefor includable within its Rate Schedule(s), which charges shall be paid only by those Members requesting such service.

(f) Marketing Power.

After satisfying, to the extent provided for herein, the total requirements of all Participating Members, IMEA shall use its best-efforts to market and dispose of under the most economically advantageous terms and conditions obtainable, all its surplus electric power and energy which in the sole judgment of IMEA can be disposed of without adversely affecting performance by IMEA under this Contract.

(g) Sales to Non-Participating Members and Eligible Utilities

The Agency may provide power and energy to Members and eligible utilities as defined in the Act which are not Participating Members at rates and under terms and conditions to be prescribed by the Board of Directors.

Section 8. Additional Covenants of Member.

Member covenants and agrees as follows:

(a) Maintenance of Rates

Member shall maintain rates for electric power and energy to its customers so that such rates shall provide revenues which, together with other funds estimated to be available, will be sufficient to meet Member's obligations to the Agency under this Contract, and all other operating expenses of Member's electric system, and to pay all obligations of Member payable from, or constituting a charge or lien on, the revenues of its electric system.

If Member establishes or maintains an integrated utility system of which the electric system is a part for its electric, water, sanitary sewer, wastewater or similar utility systems (or any combination of two or more thereof which includes its electric system), it shall maintain its rates for the services provided to the customers of its integrated utility system so that such rates shall provide revenues, which, together with other funds estimated to be available, will be sufficient to meet Member's obligations to the Agency under this Contract, and all other operating expenses of Member's integrated utility system, and to pay all obligations payable from, or constituting a charge or lien on, the revenues of its integrated utility system.

(b) No Sale or Lease

Member shall not sell, lease or otherwise dispose of all or substantially all of its electric system except on one hundred twenty (120) days' prior written notice to the Agency and, in any event, shall not so sell, lease or otherwise dispose of the same unless all of the following conditions are met: (i) at the sole option of the Agency either (x) Member shall assign this Contract and its rights and interests hereunder to the purchaser, assignee or lessee of the electric system and such purchaser, assignee or lessee shall assume all obligations of Member under this Contract in such a manner as shall assure the Agency to its sole satisfaction that the amount of electric power and energy to be purchased hereunder and the amounts to be paid therefor will not be reduced, and if and to the extent deemed necessary by the Agency in its sole discretion to reflect such assignment and assumption, the Agency and such purchaser, assignee or lessee shall enter into an agreement supplemental to this Contract to clarify the terms on which power and energy are to be sold hereunder by the Agency to such purchaser, assignee or lessee; or (y) such purchaser, assignee or lessee shall enter into a new contract with the Agency for the purchase of electric power and energy in amounts, at prices and on terms which the Agency in its sole discretion determines not to be less beneficial to it and the other Participating Members than this Contract is and, upon such sale, lease or other disposition and the entering into of such new contract, this Contract shall be terminated; (ii) the senior debt, if any, of such purchaser, assignee or lessee, if such purchaser, assignee or lessee is not a Participating Member, shall be rated in one of

the three highest whole rating categories by at least one nationally-recognized bond rating agency; and (iii) the Agency shall by resolution determine that such sale, lease or other disposition will not adversely affect the other Participating Members of the Agency or the value of this Contract, or any new contract entered into pursuant to clause (i) (y) above, as security for the payment of Bonds and interest thereon or adversely affect the eligibility of interest on Bonds (then outstanding or thereafter to be issued) for federal tax-exempt status. The Agency shall make the determinations required by this subsection (b) within one hundred twenty (120) days of receipt by the Agency of the notice referred to in the first sentence of this subsection (b) and shall set forth those determinations in writing to Member.

In the event any sale, lease or other disposition is permitted pursuant to this subsection (b), Agency may request as additional security to preserve the flow of revenues under this Contract, and Member shall provide the funds to establish an escrow deposit equivalent to Member's pro rata contribution to the Agency's Revenue Requirements for the balance of this Contract's term. Every five years, after the establishment of such escrow deposit, Agency will release to Member such of the funds in the escrow equivalent to those paid to the Agency by Member's purchaser, assigns or lessee during such previous five years.

(c) Prudent Utility Practice

Member shall, in accordance with Prudent Utility Practice, (1) at all times operate its electric system, or integrated utility system of which the electric system is a part, and the business in connection therewith in an efficient manner, (2) maintain its electric system, or integrated utility system of which the electric system is a part, in good repair, working order and condition, and (3) from time to time make all necessary and proper repairs, renewals, replacements, additions, betterments and improvements with respect to the electric system, or integrated utility system of which the electric system is a part, so that at all times the business carried on in connection therewith shall be properly conducted.

(d) Operating Expenses.

Member represents, warrants and covenants that all payments to the Agency pursuant to this Contract shall constitute operating expenses of Member's electric system (and any future ordinance authorizing borrowing by Member shall provide that such payments constitute operating expenses of the electric system) payable from any operating and maintenance fund established for such system, or for such integrated utility system of which the electric system is a part, and that such operating expenses are and shall remain payable from the revenues of Member's electric system, or integrated utility system, prior (except to the extent that any provision in any existing bond ordinance or borrowing resolution of Member governing outstanding obligations of Member provides to the contrary) to payment of any debt service payable from such revenues.

(e) Tax Status

- (i) Member shall not use or permit to be used any of the electric power and energy acquired under this Contract or operate its system in any manner or for any purpose or take any other action or omit to take any action which could, either alone or in conjunction with any other similar actions by Member or other Participating Members of the Agency, result in loss of the exclusion from gross income for federal income tax purposes of the interest on any Bond or Bonds issued by the Agency, or which could be issued by the Agency in the future, as that status is governed by the federal income tax laws, as amended from time to time, including but not limited to, Section 141 of the Internal Revenue Code of 1986, as amended, and the Treasury Regulations or any rulings promulgated thereunder or as affected by a decision of any court of competent jurisdiction (collectively, the “Tax Laws”).
- (ii) At the time of execution of this Contract, Member has no contracts whereby any person, corporation, partnership or other non-governmental entity agrees to purchase from Member electric power and/or energy provided to Member under this Contract for a period of more than thirty (30) days except as shown on Schedule D hereto, and Member has no current expectation of entering into any such contracts, except as set forth in Schedule D hereto. At least sixty (60) days prior to entering into any contract whereby any person, corporation, partnership or other non-governmental entity agrees to purchase from Member electric power and/or energy provided to Member under this Contract for a period of more than thirty (30) days, Member shall notify the Agency of its intent to enter into such contract and provide copies of such contract to the Agency. Within sixty (60) days after receipt of such notice, the Agency shall advise Member as to whether, in the opinion of counsel of recognized standing in the field of law relating to municipal bonds selected by the Agency, the entering into of such contract would result in a violation of the covenant in clause (i) above. The cost of this opinion shall be borne by Member. Any determination by the Agency that any such contract would violate the-covenant set forth in clause (i) above shall be made by the Agency based upon the aforementioned opinion. In the event that allocations are necessary under the Tax Laws to determine whether entering into any such contract violates the covenant set forth in clause (i) above, the Agency shall make such allocations, in its sole discretion, after receipt of an opinion of counsel of recognized standing in the field of law relating to municipal bonds selected by the Agency and paid for by Member.

(f) Sale of Power.

Member shall not sell at wholesale any of the electric power and energy delivered to it hereunder by the Agency to any customer of Member or any other entity for

resale by that customer or entity, unless it has first given the Agency 60 days written notice of its intent to sell such power and energy. The Agency, after receipt of such notice, shall have 30 days in which to impose limits on the amount of power and energy to be sold or to veto such sale if the sale will jeopardize the Agency's availability of resources to serve its Participating Members or increase the cost of power and energy to the Agency.

- (g) Member Rate Design. Nothing in this Contract shall be construed to diminish or surrender the power of Member to regulate the rate design for public services rendered by Member to its ratepayers.

Section 9. Cooperation.

If it becomes necessary by reason of any emergency or extraordinary condition for either the Agency or Member to request the other Party to furnish personnel, materials, tools, or equipment for the accomplishment of its obligations hereunder, the other Party shall cooperate with the requesting Party and render such assistance as the other Party may determine to be available. The Party making such request, upon receipt of itemized bills from the other Party, shall promptly reimburse the other Party for all costs reasonably associated with providing assistance, including but not limited to costs of labor, supplies, facilities and equipment and may include an amount not to exceed ten percent (10%) of the total for administrative and general expenses; such costs are to be determined on the basis of current charges or rates used in its own operations by the Party rendering the assistance.

Section 10. Assignment of Contract.

- (a) This Contract shall inure to the benefit of and shall be binding upon the respective successors and assigns of the Parties to this Contract provided, however, that, except for any assignment by the Agency authorized by subsection (b) of this section, and except for any assignment by Member in connection with the sale, lease or other disposition of all or substantially all of its electric system as provided for in Section 8(b) above, neither this Contract nor any interest herein shall be transferred or assigned by either Party, except with the consent in writing of the other Party, which consent shall not be unreasonably withheld, it being understood that it would be reasonable for the Agency to withhold such consent if such transfer or assignment would (i) reduce the total amount of electric power or energy being sold hereunder; (ii) be to a party (other than a Participating Member of the Agency) with senior debt, if any, not rated in one of three highest whole rating categories by at least one nationally recognized bond rating agency; or (iii) adversely affect the value of this Contract or any new contract entered into pursuant to clause (i) (y) of Section 8(b) hereof as security for the payment of Bonds and interest thereon or affect the eligibility of interest on Bonds (whether then outstanding or thereafter to be issued) for federal tax-exempt status. No assignment or transfer of this Contract shall relieve the Parties of any obligation hereunder, unless specifically agreed to in writing by the other Party. It is understood and agreed that if this Contract is assigned or pledged by the Agency pursuant to subsection (b) of this section 10, no

proposed assignment of this Contract by Member shall be consented to by the Agency except in accordance with the terms of such assignment and pledge by the Agency and any applicable Bond Ordinance or other governing instrument of the Agency, in addition to the foregoing.

- (b) It is understood and agreed that the Agency may issue Bonds (or other financial instruments) and enter into long-term contractual obligations on behalf of the Agency and Participating Members in connection with meeting its obligations under this Contract. Member acknowledges and agrees that the Agency may assign and pledge to any trustee or similar fiduciary designated in any Bond Ordinance all of, or any interest in, the Agency's right, title and interest in, to and under this Contract and all payments to be made to the Agency under the provisions of this Contract as security for the payment of the principal (including sinking fund installments) of, premium, if any, and interest on any Bonds and all other payments as required by the Bond Ordinance and may deliver possession of this Contract to such trustee in connection therewith, and, upon such assignment, pledge and delivery, the Agency may grant to such trustee any rights and remedies herein provided to the Agency and thereupon any reference herein to the Agency shall be deemed, with the necessary changes in detail, to include such trustee. Member agrees to take all steps necessary to facilitate any such assignment and pledge.

Section 11. Insurance.

The Parties to this Contract shall each procure and maintain such policies of general liability insurance and other insurance or self-insurance as shall be necessary in accordance with Prudent Utility Practice to insure themselves against any claim or claims for damages arising by reason of property damage, personal injury or death occasioned directly or indirectly in connection with the operation of its electric system, or integrated utility system of which the electric system is a part, or the performance of activities undertaken by it in connection with this Contract.

The Agency and Member shall maintain insurance, if available, or self-insurance on their electric facilities to cover damage or accident to those facilities in an amount consistent with Prudent Utility Practice.

Each Party agrees to defend, indemnify and hold harmless the other Party against any and all claims, liability, loss, damages or expense, including attorneys' fees, caused by or resulting solely from the operation of the indemnifying Party's electric facilities, or integrated utility system facilities, or solely from the negligent acts or omissions of the indemnifying Party, its employees or agents. This provision is not intended to be, and shall not be construed to constitute, a waiver for any purpose as to any person or entity of any statutory claim, procedure or statutory limitation on liability applicable to either Party.

Section 12. Opinions as to Validity.

If reasonably requested by the Agency in connection with a financing or long-term contract by the Agency, Member shall timely furnish the Agency with an opinion by an attorney or firm of

attorneys and a certificate from Member to the effect that (i) Member is a political subdivision and municipal corporation of the State of Illinois and is fully authorized and empowered under the laws of the State of Illinois to enter into this Contract and to perform its obligations hereunder, (ii) based upon the attorney's knowledge and due investigation, no consent, order, waiver or any other action by any person, board or body, public or private, is required as of the date of execution of this Contract by Member for Member to enter into this Contract and to perform its obligations hereunder, (iii) based upon the attorney's knowledge and due investigation, there is no action, suit or proceeding at law or in equity or by or before any court, administrative agency, governmental instrumentality or other agency pending or threatened against or affecting Member or its electric utility system (or, if Member's electric utility system shall be deemed to be a part of an integrated utility system, such integrated utility system) which seeks to prohibit, restrain or enjoin Member from entering into or complying with its obligations contained in this Contract, including payment of obligations to the Agency, or in any way affects or questions the validity or enforceability of this Contract, or in any way might materially adversely affect Member's ability to carry out the transactions contemplated by this Contract, (iv) this Contract has been duly and validly authorized, executed and delivered by Member and constitutes a legal, valid and binding obligation of Member enforceable against it in accordance with its terms, except as such enforceability may be limited by applicable bankruptcy, insolvency, reorganization and similar laws of general application relating to the rights and remedies of creditors, and (v) the execution and delivery of this Contract and compliance by Member with its terms will not conflict with, or constitute on the part of Member a breach of or a default under, any existing statute, law, governmental rule, regulation, decree, resolution, ordinance, charter or order, or any agreement, indenture, mortgage, lease or instrument to which Member is subject or by which it is or its properties are or may be bound.

Member shall at its sole expense furnish the Agency, in form and substance satisfactory to and at such time requested by the Agency, such additional legal opinions, certificates, instruments and other documents as the Agency may reasonably request. The Agency shall at its sole expense furnish Member, in form and substance satisfactory to and at such time requested by Member, such additional legal opinions, certificates, instruments and other documents as Member may reasonably request.

Section 13. Dispute Resolution/Procedure.

Should any dispute arise under this Contract concerning the interpretation or application of the Contract or should any controversy, claim or counterclaim arise, then before the initiation of litigation, such dispute shall be submitted to the chief executive officers of the Parties for resolution. Each Party shall designate its chief executive officer. In the event no agreement is reached, the Parties shall have all remedies, either at law or in equity, including but not limited to an action for specific performance, mandamus, and/or injunction.

Section 14. General Provisions.

(a) Regulation.

This Contract, and the respective obligations of the Parties hereunder, are subject to all valid laws, orders, rules, and regulations of duly constituted authorities having jurisdiction.

(b) Access and Information.

Duly authorized representatives of the Agency and Member shall be permitted to enter the other's premises at all reasonable times in order to carry out the provisions of this Contract.

The Agency and Member will promptly furnish each other such information as may be reasonably requested from time to time in order to carry out more effectively the intent and purpose of this Contract, or as may be reasonably necessary and convenient in the conduct of the operations of the Party requesting such information. Without limiting the generality of the foregoing, Member shall, upon request, furnish to the Agency all such information, certificates, engineering reports, feasibility reports, information relating to load forecasting and power supply planning, financial statements, opinions of counsel (including the opinion required by Section 12 hereof), official statements and other documents as shall be reasonably necessary in connection with any financial reporting by the Agency, or any issuance of Bonds or any other financing instruments and other contractual obligations undertaken by the Agency on behalf of the Participating Members.

Each Party may audit the books and records of the other Party upon reasonable request, and the cost shall be paid by the requesting Party.

Member shall assist the Agency in forecasting Member's power and energy requirements to be provided under this Contract. To this end Member shall promptly provide the Agency with notice of all anticipated changes in Member's electric load and shall provide the Agency with Member's projected future power and energy requirements in such form or for such periods as the Agency may from time to time request. Member also shall provide the Agency with all other information reasonably sought by the Agency for the purpose of load forecasting and planning.

Member further agrees to provide such certificates and opinions as may be required by the Agency for any financing or other financial security.

(c) Compliance with Terms of Service.

Member agrees to comply with all terms and conditions of service applicable to sales of power and energy and/or transmission and wholesale distribution service

procured by the Agency from any supplier for Member's load, including any connection, interconnection, construction or related agreement with or tariff of the owner and/or operator of the transmission and/or distribution system to which Member's system is directly or indirectly connected. The Agency shall provide Member with a copy of all such terms and conditions of service.

(d) Demand-Side Programs.

Member agrees to cooperate with and endeavor to implement at Member's cost any demand-side, demand response, conservation, load management and similar programs of the Agency adopted in connection with the provision of service hereunder.

(e) Relationship to and Compliance with Other Instruments.

It is recognized by the Parties hereto that, in undertaking, or causing to be undertaken, the planning, financing, construction, acquisition, operation and maintenance of the Power Supply System, the Agency must comply with the requirements of any Bond ordinance, any agreements for the purchase or transmission of power and energy, any agreement with any owner or co-owner of or participant or co-participant in any facility included in the Power Supply System relating to the construction, operation or maintenance thereof and all licenses, permits and regulatory approvals necessary for such planning, financing, construction, acquisition, operation and maintenance, and it is therefore agreed that the Agency's performance under this Contract must be consistent with the terms and provisions of any Bond Ordinance, any such agreements for the purchase or transmission of power and energy (including any provisions for the curtailment or interruption of power and energy or transmission service contained therein), any such agreement with any owner or co-owner of or participant or co-participant in any facility included in the Power Supply System and all such licenses, permits, and regulatory approvals.

(f) No Relationship Created

None of the provisions of this Contract is intended to create, nor shall it be deemed to create, any relationship between the Parties other than that of independent entities contracting with each other solely for the purpose of effectuating the provisions of this Contract. Except as specifically provided for herein, neither Party, nor any of their respective officers, agents or employees, shall be construed to be an officer, agent or employee of the other, solely by reason of the existence of this Contract. Except as specifically provided for herein, neither Party shall make any contract or representation, or incur any liability or obligation whatsoever, on behalf of or in the name of the other Party.

(g) Amendment.

Except as provided for expressly herein, neither this Contract nor any terms hereof may be terminated, amended, supplemented, waived or modified except by an instrument in writing executed by each Party to this Contract.

(h) Governing Law.

This Contract shall be governed by, and construed in accordance with, the laws of the State of Illinois without regard to any conflicts of law principles.

(i) Delays and Waivers.

The failure of either Party to insist in any one or more instances upon the performance of any of the terms, covenants or conditions of this Contract shall not be construed as a waiver or relinquishment of the future performance of any other term, covenant or condition, but the defaulting Party's obligation with respect to future performance of any other term shall continue in full force and effect. The failure of either Party to take any action permitted to be taken by it by this Contract shall not be construed as a waiver or relinquishment of that Party's right thereafter to take such action.

(j) Headings; References.

The headings used in this Contract are for convenience only and shall not constitute a part of this Contract. Unless the context clearly requires otherwise, all references to "Sections" and other subdivisions are to the sections and subdivisions of this Contract.

(k) Severability.

In the event that any of the terms, covenants or conditions of this Contract, or the application of any such term, covenant or condition, shall be held invalid as to any person or circumstance by any court having jurisdiction under the circumstances, the remainder of this Contract and the application of its terms, covenants or conditions to such persons or circumstances shall not be affected thereby. If any provision of this Contract is held invalid, the Parties agree to negotiate a revision to this Contract which to the extent possible restores the original intent of this Contract with respect to the invalid provision.

In the event that any of the terms, covenants or conditions of any Power Sales Contract for Participating Members (other than this Contract), or the application of any such term, covenant or condition, shall be held invalid as to any person or circumstance by any court having jurisdiction under the circumstances, it is agreed by the Parties hereto that such invalidity shall have no effect whatsoever upon any of the terms, covenants or conditions of this Contract.

(1) Notices.

Any notice required or permitted under this Contract shall be in writing and shall be given by personal delivery, including by electronic mail; by private courier service, such as Federal Express or United Parcel Service; or by certified mail, return receipt requested, addressed as follows:

To the Agency: Illinois Municipal Electric Agency
Attention: President & CEO
3400 Conifer Drive
Springfield, Illinois 62711
e-mail: kgaden@imea.org

To Member: City of St. Charles
Attention: Mayor
2 E. Main Street
St. Charles, IL 60174

Either Party may, by written notice, designate a different or additional address for notices to it. All notices hereunder shall be effective only upon receipt by the Party to which notice is being given. If a Party declines or refuses to accept or otherwise frustrates reasonable attempts to make delivery of the notice, the notice shall be deemed to have been received and shall be effective as of the date one day after it was sent.

(m) Survivorship of Obligations.

The termination of this Contract shall not discharge either Party hereto from any obligation it owes to the other Party under this Contract by reason of any transaction, loss, cost, damage, expense, or liability which shall occur or arise (or the circumstances, events, or basis of which shall occur or arise) prior to such termination. It is the intent of the Parties hereby that any such obligation owed (whether the same shall be known or unknown at the termination of this Contract or whether the circumstances, events, or basis of the same shall be known or unknown at the termination of this Contract) shall survive the termination of this Contract.

Section 15. No Adverse Distinction

IMEA agrees that there shall be no adverse distinction and no pattern of undue discrimination in carrying out its obligations under this Contract relating to Member as compared to other Participating Members; provided, however, that differences in treatment between Participating Members based on variances in cost of service determined by the Agency and other criteria as provided for in Section 3 shall not be considered an adverse distinction or undue discrimination for purposes of this Contract. Member's sole remedy for adverse distinction is pursuant to this Contract.

Section 16. Intergovernmental Freeze.

This Contract and the obligations hereunder shall not be subject to the Local Government Financial Planning and Supervision Act of the State of Illinois, or, to the extent permitted, to any other stay, moratorium, freeze or bankruptcy law.

IN WITNESS WHEREOF, the Parties have caused this Contract to be executed by their proper officials, respectively, being thereunto duly authorized, and their respective corporate seals to be hereto affixed, as of the day, month and year first above written.

ILLINOIS MUNICIPAL ELECTRIC AGENCY

By: _____
President & CEO

ATTEST:

Assistant Secretary-Treasurer

CITY OF ST. CHARLES, ILLINOIS

By: _____
Mayor

ATTEST:

City Clerk

REVISED SCHEDULE A

ILLINOIS MUNICIPAL ELECTRIC AGENCY SERVICE SPECIFICATIONS

MEMBER: City of St. Charles, Illinois

1. **Applicability.** These service specifications are applicable to the Power Sales Contract dated as of June 17, 2004 covering the supply and delivery of electric power and energy by the Agency to the City of St. Charles, Illinois, hereinafter referred to as the "Participating Member."
2. **Points of Delivery.** The Agency is obligated to deliver electric power and energy contracted for by the Participating Member at the following points and voltages, which are shown in the diagram under paragraph 5 hereof:

<u>Delivery Point Identity and Location</u>	<u>Delivery Voltage</u>
a) Load side terminals of ComEd metering structure, ComEd Circuit [REDACTED]	34.5 kV
b) Load side terminals of ComEd metering structure, ComEd Circuit [REDACTED]	34.5 kV
c) Load side terminals of ComEd metering structure, ComEd Circuit [REDACTED]	34.5 kV
d) Load side terminals of ComEd metering structure, ComEd Circuit [REDACTED]	34.5 kV
e) Load side terminals of ComEd metering structure, ComEd Circuit [REDACTED]	34.5 kV
f) Load side terminals of ComEd metering structure, ComEd Circuit [REDACTED]	34.5 kV
g) Load side terminals of ComEd metering structure, ComEd Circuit [REDACTED]	34.5 kV
h) Load side terminals of ComEd metering structure, ComEd Circuit [REDACTED]	34.5 kV
i) Load side terminals of ComEd metering structure, ComEd Circuit [REDACTED]	34.5 kV
j) Load side terminals of ComEd metering structure, ComEd Circuit [REDACTED]	34.5 kV
k) Solar Facility – 500kW	12.47 kV

3. **Points of Measurement.** The Agency shall meter electric power and energy delivered to the Participating Member as follows and as shown in the diagram under paragraph 5 hereof:

<u>Metering Point Identity and Location</u>	<u>Metering Voltage</u>
a) ComEd metering structure, ComEd Circuit [REDACTED]	34.5 kV
b) ComEd metering structure, ComEd Circuit [REDACTED]	34.5 kV
c) ComEd metering structure, ComEd Circuit [REDACTED]	34.5 kV
d) ComEd metering structure, ComEd Circuit [REDACTED]	34.5 kV
e) ComEd metering structure, ComEd Circuit [REDACTED]	34.5 kV

f) ComEd metering structure, ComEd Circuit [REDACTED]	34.5 kV
g) ComEd metering structure, ComEd Circuit [REDACTED]	34.5 kV
h) ComEd metering structure, ComEd Circuit [REDACTED]	34.5 kV
i) ComEd metering structure, ComEd Circuit [REDACTED]	34.5 kV
j) ComEd metering structure, ComEd Circuit [REDACTED]	34.5 kV
k) Solar Facility – 500kW	12.47 kV

4. Adjustments. Where electric power and energy are metered on the low side of a transformer at any Point of Delivery, meter readings for all electric power and energy supplied by the Agency at such metering point will be increased to compensate for transformer losses between the delivery voltage and the metering voltage.

If there are other losses between any Point of Measurement and any Point of Delivery, an appropriate loss factor will be used to compensate for losses.

5. Diagram: Following is a one-line diagram of the facilities at each Point of Delivery and Point of Measurement. The engineering and electric system design information contained in the attached one-line drawing classifies as Critical Electric Infrastructure Information (CEII) and it is not available for public inspection. A public version is attached for public records purposes.

Effective: _____

Approved: _____

Issued by: _____


SCHEDULE B

**ILLINOIS MUNICIPAL ELECTRIC AGENCY
POWER SALES RATE SCHEDULE**

TO BE APPROVED BY IMEA BOARD OF DIRECTORS IN THE FUTURE.

SCHEDULE D

MEMBERS LONG TERM POWER CONTRACTS FOR SALES

 <p>CITY OF ST. CHARLES ILLINOIS • 1834</p>	AGENDA ITEM EXECUTIVE SUMMARY		Agenda Item number: 5.B
	Title:	Recommendation to Approve a Resolution to Authorize Issuing a Purchase Order to Schweitzer Engineering Laboratories (SEL), Inc. for Substation Equipment	
	Presenter:	Paul Hopkins, Public Works Manager, Electric Services	
Meeting: Government Services Committee		Date: June 24, 2024	
Proposed Cost: \$ 125,000		Budgeted Amount: \$ 125,000	Not Budgeted: <input type="checkbox"/>

<p>Executive Summary (if not budgeted, please explain):</p> <p>In December 2023 City Council approved a purchase order to Schweitzer Engineering Laboratories (SEL), Inc for the purchase of substation equipment and engineering services.</p> <p>As identified in 2023 and for consistency purposes, Staff is recommending continuation of SEL Equipment this year. The second year of the replacement project, which is this FY 25, will focus on Substation 5. Staff has budgeted \$125,000 and is seeking Council approval to authorize the issuing of a purchase order to Schweitzer Engineering Laboratories (SEL) in a not to exceed amount of \$125,000.</p>
<p>Attachments (please list):</p> <p>*Schweitzer Engineering Laboratories Quotation # 00358115</p>
<p>Recommendation/Suggested Action (briefly explain):</p> <p>Recommendation to Approve a Resolution to Authorize issuing a Purchase Order to Schweitzer Engineering Laboratories (SEL) to obtain Substation Equipment.</p>



Please address purchase orders to:
 Schweitzer Engineering Laboratories, Inc.
 2350 NE Hopkins Court
 Pullman, WA 99163

Reference this quote number and send purchase orders to:
 support@astareg.com

Created Date	6/3/2024	Quote Number	00358115
Account Name	City of St. Charles, Illinois	Expiration Date	8/2/2024
Sold To Contact	Giovanni McLean	Prepared By	Erik Hanssen
Sold To Contact Email	gmclean@stcharlesil.gov	Sold To Sales Channel	A Star Electric Company
Sold To Contact Phone	+1 (224) 483-6771		support@astareg.com

Line No.	Part Number	Description	Sales Price	Quantity	Total Price
1	651R#KD3N (0651R21CXAXAD13X2XXXX)	SEL-651R-2 Advanced Recloser Control	USD 7,615.29	12.00	USD 91,383.48
2	3350#GFHK	SEL-3350 Automation Controller	USD 10,090.19	1.00	USD 10,090.19

Grand Total USD 101,473.67

Lead Time

Lead times are confirmed upon receipt of a complete purchase order and can be subject to change due to special circumstances. Lead times do not include delivery times.

Typical Lead Times

- Ship-from-stock products: 2 business days
- All other products: 4–10 business days
- Faulted-circuit indicators and sensors: Confirmed at time of order

End User

All submitted purchase orders must contain valid and complete end-user information, including full address. Incomplete or invalid information may delay the processing of the purchase order.

Freight

Prices include ground freight prepaid within the 48 contiguous United States via SEL's preferred carrier. Buyers may request expedited delivery service at their expense by submitting a collect account or by including added charges to their invoice. Orders with multiple items may be shipped from multiple locations and may arrive in more than one delivery.

Manuals

Equipment manuals are provided free on CD with relays. If a hard copy manual is required, this should be specified at the time of order as a separate line item and may be subject to freight charges.

Warranty

SEL is pleased to offer our 10-Year Product Warranty. Please visit <https://selinc.com/company/quality/>. Third-party products included in this

Quote are not covered by SEL's warranty. SEL will pass on the original manufacturer warranty to the Buyer if possible.

Payment Terms

Net 30 or per the approved credit terms with SEL. SEL may require additional credit information or prepayment prior to acceptance of a purchase order if credit terms have not been established or are insufficient to cover this purchase.

Quote Terms

Prices are based on quoted quantities and may change if quantities change. Prices do not include sales tax.

Information within this quotation is for your evaluation purposes only. Disclosure of this information outside of your company is prohibited.


Purchase order modifications or cancellations may result in additional fees and adjustment to delivery schedule. To prevent delays, please carefully review the part number descriptions listed in the above table to ensure ordering options will meet requirements.

SEL values your right to privacy, and uses personal data provided to SEL only for our legitimate business interests. More information may be found at the [SEL Privacy Policy](#). You may exercise your rights related to your personal data by contacting the SEL Data Protection Officer at data_protection@selinc.com.

All sales are subject to the attached SEL Sales Terms, available on SEL's website (<https://www.selinc.com/termsandconditions/unitedstates>) and incorporated herein by reference unless Buyer and SEL has a Master Agreement or signed negotiated terms on file.

Part Number	Description	Part Options
651R#KD3N (0651R21CXAXAD13X2XXXX)	SEL-651R-2 Advanced Recloser Control	Control Cable Interface -- Traditional Retrofit (14-Pin) Enclosure -- Single Door (Rear Mount), Painted Steel With 3-Point Latches Conformal Coat -- No Secondary Input Voltage -- (6) 300 Vac Max Inputs Secondary Input Current -- 1 A Phase, 0.2 A Neutral Extra Inputs/Outputs -- None Communications Port -- 3 EIA-232, USB Communications Interface -- (1) 100BASE-FX, EIA-485 Communications Protocol -- Standard Power Supply -- 125 Vdc Battery Option -- None User Interface -- Configurable Labels Installed Accessories -- None Bundled Accessories (Shipped in box with SEL-651R but not installed in enclosure) -- None
		Processor -- Intel Atom x5-E3940 Quad Core, 1.6 GHz RAM -- 8 GB Operating System -- SEL Real-Time Automation Controller (RTAC) Client Access License -- None Conformal Coat -- None Chassis and Mounting -- Horizontal 1U Rack Mount Power Supply A -- 125-250 Vdc or 110-240 Vac Power Supply B -- None SSD Slot 1 -- SLC 32 GB Industrial Grade SSD SSD Slot 2 -- None Expansion Slot 1 -- None Expansion Slot 2 -- None Rear Ethernet Port Configuration -- 4 RJ-45 10/100/1000 Mbps Rear Ethernet Port 1 -- RJ45 Rear Ethernet Port 2 -- RJ45 Rear Ethernet Port 3 -- RJ45 Rear Ethernet Port 4 -- RJ45

3350#GFHK	SEL-3350 Automation Controller	<p>Web Human Machine Interface (HMI) -- Yes</p> <p>Audit Utilities -- No</p> <p>IEC 61850 MMS Client and File Services -- No</p> <p>IEC 61850 MMS Server and File Services -- No</p> <p>IEC 61850 Goose -- No</p> <p>EtherNet/IP -- No</p> <p>Grid Connect -- No</p> <p>Grid Connect 5 MW -- No</p> <p>Horizon SVPplus -- No</p> <p>Horizon Power System Model -- No</p> <p>Dynamic Disturbance Recorder -- No</p> <p>Meter Report Trend Recorder -- No</p> <p>Report Generator/Email Client -- No</p> <p>FTP Sync -- No</p> <p>FileIO -- Yes</p> <p>Continuous Recording -- No</p> <p>Condition Monitoring -- No</p> <p>OPC UA Server -- No</p> <p>OPC UA Client -- No</p> <p>OT SDN Flow Controller -- No</p> <p>DMA Maximum Simultaneous Connection Count -- None - SEL Blueframe application platform with management tools - No DMA</p> <p>DMA Disturbance Monitoring -- No</p> <p>DMA Configuration Monitoring -- No</p> <p>DMA Credential Management -- No</p> <p>DMA Custom Monitoring -- No</p> <p>DMA Bundle -- No</p> <p>DMS FLISR -- No</p> <p>FLISR Feeder Quantity -- N/A</p> <p>Protocol Services -- No</p> <p>Protocol Service Data Point Level -- Level 0</p> <p>SEL Compass -- No</p> <p>SEL-5030 AcSELeRator QuickSet -- No</p> <p>SEL-5033 ACSELERATOR RTAC -- No</p> <p>SEL-5045 AcSELeRator Team -- No</p> <p>SEL-5601-2 Synchronwave Event -- No</p> <p>SEL-5073 Synchronwave Phasor Data Concentrator -- No</p> <p>SEL-5815 PRP Driver for Windows -- No</p> <p>McAfee - Embedded Control -- No</p>
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 <p>CITY OF ST. CHARLES ILLINOIS • 1834</p>	AGENDA ITEM EXECUTIVE SUMMARY		Agenda Item number: 5.C
	Title:	Recommendation to Approve a Resolution to Authorize Issuing Purchase Orders to Badger Meter, Inc. for Badger AMI Water Meter Equipment	
	Presenter:	Paul Hopkins, Public Works Manager, Electric Services	
Meeting: Government Services Committee		Date: June 24, 2024	
Proposed Cost: \$622,000		Budgeted Amount: \$ 622,000	Not Budgeted: <input type="checkbox"/>
<p>Executive Summary (if not budgeted, please explain):</p> <p>The existing water meter remote reading equipment is obsolete and has been failing for several years, both the actual water meter remote read components and the equipment in which the customer’s water consumption the data is entered and then transmitted to a vendor that then sends the data to our Utility Billing system.</p> <p>Every water meter in the City is a Badger Meter, Inc. meter, and that manufacturer has always been helpful and cooperative in helping the City obtain our customers’ water consumption data, even through the long period of obsolescence. Technology has evolved and it is necessary to update reading software and equipment to continue to read and bill water consumption, as well as recover the ability to read and bill all the accounts that we are unable to read.</p> <p>Last year, City Council approved a purchase order to Badger Meter, Inc. for the purchase of water metering software and equipment to implement the City’s Water Advanced Metering Infrastructure (AMI).</p> <p>This year Staff is recommending continuation of the AMI implementation with Badger. The FY24/25 budget contains \$622,000 for Year 2 of the AMI implementation. Staff is requesting the approval of \$622,000 which will give staff the flexibility to purchase the equipment at the current unit price costs and continue meter replacements.</p>			
<p>Attachments (please list):</p> <p>*Vendor Sole Source Document *Badger Beacon Mobile and Cellular System Quotation including Equipment Unit Pricing</p>			
<p>Recommendation/Suggested Action:</p> <p>Recommendation to Approve a Resolution to Authorize issuing Purchase Orders to Badger Meter, Inc. for Badger AMI Water Meter Equipment.</p>			

Badger Meter Inc.
 4545 W Brown Deer Road Milwaukee WI 53223
 PO Box 245036 Milwaukee WI 53224-9536

Revised Date
To
 CITY OF ST CHARLES
 TWO EAST MAIN ST
 ST CHARLES
 Illinois 601741984

Customer ID 00121792

Effective Dates 07-12-2023 - 07-11-2024

Salesperson	Proposal Subject	Shipping Terms / INCO Terms	Payment Terms
006123 LUIS VAZQUEZ	St Charles - BEACON Master Proposal 2023 2024	PREPAY/NO CHARGE For SHIPMENTS > \$35,000 FCA FACTORY	NET 30 DAYS

Line #	Description	Qty	Unit Net Price USD	Line Totals USD
1	BMI Part No.: BEACON-001 Description: BEACON ACTIVATION	1	0.000	0.00
2	BMI Part No.: BEACON-ENGAGEMENT Description: BEACON ENGAGEMENT FEE	1	18,000.000	18,000.00
3	BMI Part No.: 66220-005 Description: BILLING INTEGRATION	1	7,350.00	7,350.00
4	BMI Part No.: 68886-501 Description: MOBILE READ MODULE SERVICE UNITS	12	200.000	2,400.00
5	BMI Part No.: 68886-502 Description: USER LOGIN ANNUAL LICENSE SERVICE UNITS	48	25.000	1,200.00
6	BMI Part No.: 69328-202 Customer Part: BEACON CELLULAR TRAINING - DAY 1 Description: ON-SITE, GETTING STARTED W/BEACON AMA	1	2,625.00	2,625.00
7	BMI Part No.: 69328-912 Customer Part: BEACON CELLULAR TRAINING - DAY 2 Description: ON-SITE TRAINING,CUSTOM, ADDIT CONSECUTIVE DAY	1	1,575.00	1,575.00

Thank you for your business!

 Estimated ship dates subject to change based upon component availability, as a result of global supply chain constraints, or credit review.
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Line #	Description	Qty	Unit Net Price USD	Line Totals USD
8	BMI Part No.: 69328-302 Customer Part: BEACON MOBILE TRAINING Description: ON-SITE, BEACON AMA FOR MOBILE SOLUTIONS	1	4,200.00	4,200.00
9	BMI Part No.: 68886-301 Customer Part: BEACON MOBILE SERVICE UNITS Description: BEACON MBL HOSTING SERV UNIT	12716	0.080	1,017.28
10	BMI Part No.: 109-1966 Cat String: MB-DT-XM-XX Description: Mobile Data Collect, Dell Latitude 7220 Tablet, ORION ME Mobile Trans Kit,	1	7,880.60	7,880.60
11	BMI Part No.: 100-0941 Cat String: MB-7H-7M-XX Description: Mobile Data Collect, Ranger 7 HH, ORION ME Module,	1	10,700.00	10,700.00
12	BMI Part No.: 100-5797 Cat String: DS-BAB-PC1P-XXD3-Y2-XXXX-XXXXX-XXX-XX-XX-XX-XX-B0A Description: Disc, M25 5/8"(3/4x7-1/2), CI Btm 430SS-1, PL, (TS-135, SN Yr 9D & PBB, BMI STD,	1	67.32	67.32
13	BMI Part No.: 101-2962 Cat String: R4-BA1-E1DA-2A1-9AE-NN-AD-TH-AA-B0A Description: REG 4, M25, HR-E LCD, ORION ME, PL Lid/Shrd-GRY, Slr Scrw, 9D-0.01 Gal, SN YR 9D in & out, Wall Brkt, TT-10', Grnd/Ocean-Pause, BMI STD,	1	188.80	188.80
14	BMI Part No.: 101-6033 Cat String: R4-BA1-E1AB-2B1-9AE-NN-AC-TH-AA-B0A Description: REG 4, M25, HR-E LCD, ORION LTE-M, PL Lid/Shrd-GRY, Trx Scrw, 9D-0.01 Gal, SN YR 9D in & out, LTE Wall Brkt, TT-10', Grnd/Ocean-Pause, BMI STD,	1	189.00	189.00
15	BMI Part No.: 100-6172 Cat String: DS-KCC-PC2P-XXD3-Y2-XXXX-XXXXX-XXX-XX-XX-XX-XX-B0A Description: Disc, 70 1"(10-3/4), CI Btm 430SS-all, PL, (TS-135, SN Yr 9D & PBB, BMI STD, 4 PACK,	1	212.52	212.52
16	BMI Part No.: 103-5735 Cat String: R4-KC1-E1DA-2A1-9AE-NN-AD-TH-AA-B0A Description: REG 4, M70, HR-E LCD, ORION ME, PL Lid/Shrd-GRY, Slr Scrw, 9D-0.01 Gal, SN YR 9D in & out, Wall Brkt, TT-10', Grnd/Ocean-Pause, BMI STD,	1	188.80	188.80

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Line #	Description	Qty	Unit Net Price USD	Line Totals USD
17	BMI Part No.: 110-9928 Cat String: R4-KC1-E1AB-2B1-9AE-NN-AC-TH-AA-B0A Description: REG 4, M70, HR-E LCD, ORION LTE-M, PL Lid/Shrd-GRY, Trx Scrw, 9D-0.01 Gal, SN YR 9D in & out, LTE Wall Brkt, TT-10', Grnd/Ocean-Pause, BMI STD, 24 PACK,	1	189.00	189.00
18	BMI Part No.: 101-1968 Cat String: DS-NDA-PFAS-SAD3-Y2-XXXX-XXXXX-XXX-XX-XX-XX-XX-B0A Description: Disc, M120 1-1/2"-ELL Dr, 430SS, SS, EL-DI Gskt, (TS-135, SN Yr 9D & PBB, BMI STD,	1	611.10	611.10
19	BMI Part No.: 110-9941 Cat String: R4-ND1-E1DA-2A1-9BE-NN-AD-TJ-AA-B0A Description: REG 4, M120, HR-E LCD, ORION ME, PL Lid/Shrd-GRY, Slit Scrw, 9D-0.1 Gal, SN YR 9D in & out, Wall Brkt, TT-25', Grnd/Ocean-Pause, BMI STD, 24 PACK,	1	196.80	196.80
20	BMI Part No.: 101-0900 Cat String: R4-ND1-E1AB-2B1-9BE-NN-AC-TJ-AA-B0A Description: REG 4, M120, HR-E LCD, ORION LTE-M, PL Lid/Shrd-GRY, Trx Scrw, 9D-0.1 Gal, SN YR 9D in & out, LTE Wall Brkt, TT-25', Grnd/Ocean-Pause, BMI STD,	1	196.00	196.00
21	BMI Part No.: 101-0994 Cat String: DS-REA-PFAS-SAD3-Y2-XXXX-XXXXX-XXX-XX-XX-XX-XX-B0A Description: Disc, M170 2"-ELL Dr, 430SS, SS, EL-DI Gskt, (TS-135, SN Yr 9D & PBB, BMI STD,	1	883.26	883.26
22	BMI Part No.: 110-9942 Cat String: R4-RD1-E1DA-2A1-9BE-NN-AD-TJ-AA-B0A Description: REG 4, M170- 2", HR-E LCD, ORION ME, PL Lid/Shrd-GRY, Slit Scrw, 9D-0.1 Gal, SN YR 9D in & out, Wall Brkt, TT-25', Grnd/Ocean-Pause, BMI STD, 24 PACK,	1	196.80	196.80
23	BMI Part No.: 101-0893 Cat String: R4-RD1-E1AB-2B1-9BE-NN-AC-TJ-AA-B0A Description: REG 4, M170- 2", HR-E LCD, ORION LTE-M, PL Lid/Shrd-GRY, Trx Scrw, 9D-0.1 Gal, SN YR 9D in & out, LTE Wall Brkt, TT-25', Grnd/Ocean-Pause, BMI STD,	1	196.00	196.00

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Line #	Description	Qty	Unit Net Price USD	Line Totals USD
24	BMI Part No.: 103-8037 Cat String: EU-EDA-PSAX-E5-DA-19BE-A5Y2-ADTH-AA-B0A Description: E-Series SS, 1-1/2" EL(13), EL-DI Gskt, Enc, ORION ME, 9D-0.1 Gal, SN Yr 9D & PBB, Wall Brkt, TT-10', BMI STD,	1	865.60	865.60
25	BMI Part No.: 102-2501 Cat String: EU-EDA-PSAX-E5-AB-19BE-A5Y2-ACTH-AA-B0A Description: E-Series SS, 1-1/2" EL(13), EL-DI Gskt, Enc, ORION LTE-M, 9D-0.1 Gal, SN Yr 9D & PBB, LTE Wall Brkt, TT-10', BMI STD,	1	892.80	892.80
26	BMI Part No.: 104-1611 Cat String: EU-EEA-PSAX-E5-DA-19BE-A6Y2-ADTH-AA-B0A Description: E-Series SS, 2" EL(17), EL-DI Gskt, Enc, ORION ME, 9D-0.1 Gal, SN Yr 9D & PBB, Wall Brkt, TT-10', BMI STD,	1	1,122.80	1,122.80
27	BMI Part No.: 104-4348 Cat String: EU-EEA-PSAX-E5-AB-19BE-A6Y2-ACTH-AA-B0A Description: E-Series SS, 2" EL(17), EL-DI Gskt, Enc, ORION LTE-M, 9D-0.1 Gal, SN Yr 9D & PBB, LTE Wall Brkt, TT-10', BMI STD,	1	1,150.00	1,150.00
28	BMI Part No.: 68886-104 Customer Part: BEACON CELLULAR SERVICE UNITS Description: ORION CELLULAR LTE SERV UNIT	10001	0.880	8,800.88
29	BMI Part No.: 100-6328 Cat String: DS-DBA-PC1P-XXD3-Y2-XXXX-XXXXX-XXX-XX-XX-XX-XX-B0A Description: Disc, M35 3/4"(7-1/2), CI Btm 430SS-1, PL, (TS-135, SN Yr 9D & PBB, BMI STD,	1	101.64	101.64
30	BMI Part No.: 109-9283 Cat String: R4-DB1-E1DA-2A1-9AE-NN-AD-TH-AA-B0A Description: REG 4, M35, HR-E LCD, ORION ME, PL Lid/Shrd-GRY, Slit Scrw, 9D-0.01 Gal, SN YR 9D in & out, Wall Brkt, TT-10', Grnd/Ocean-Pause, BMI STD, 24 PACK,	1	188.80	188.80
31	BMI Part No.: 106-1908 Cat String: R4-DB1-E1AB-2A1-9AE-NN-AC-TH-AA-B0A Description: REG 4, M35, HR-E LCD, ORION LTE-M, PL Lid/Shrd-GRY, Slit Scrw, 9D-0.01 Gal, SN YR 9D in & out, LTE Wall Brkt, TT-10', Grnd/Ocean-Pause, BMI STD,	1	216.00	216.00

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Line #	Description	Qty	Unit Net Price USD	Line Totals USD
32	BMI Part No.: 111-1859 Cat String: EB-EFC-PXXP-E5-AB-19BE-E3Y2-ACTJ-AA-B0A Description: E-Series B-Alloy, 3" RND(12), TP Prsr, Enc, ORION LTE-M, 9D-0.1 Gal, SN Yr 9D & PBB, LTE Wall Brkt, TT-25', BMI STD,	1	2,955.50	2,955.50
33	BMI Part No.: 111-1863 Cat String: EB-EFD-PXXP-E5-AB-19BE-E3Y2-ACTJ-AA-B0A Description: E-Series B-Alloy, 3" RND(17), TP Prsr, Enc, ORION LTE-M, 9D-0.1 Gal, SN Yr 9D & PBB, LTE Wall Brkt, TT-25', BMI STD,	1	3,008.50	3,008.50
34	BMI Part No.: 106-5748 Cat String: EB-EGC-PXXP-E5-AB-19BE-E4Y2-ACTJ-AA-B0A Description: E-Series B-Alloy, 4" RND(14), TP Prsr, Enc, ORION LTE-M, 9D-0.1 Gal, SN Yr 9D & PBB, LTE Wall Brkt, TT-25', BMI STD,	1	3,571.50	3,571.50
35	BMI Part No.: 106-5749 Cat String: EB-EHB-PXXP-E5-AB-19CE-E6Y2-ACTJ-AA-B0A Description: E-Series B-Alloy, 6"x18" RND Prsr, Enc, ORION LTE-M, 9D-1 Gal, SN Yr 9D & PBB, LTE Wall Brkt, TT-25', BMI STD,	1	5,301.50	5,301.50
36	BMI Part No.: 107-5528 Cat String: EB-EHD-PXXP-E5-AB-19CE-E6Y2-ACTJ-AA-B0A Description: E-Series B-Alloy, 6"x24" RND Prsr, Enc, ORION LTE-M, 9D-1 Gal, SN Yr 9D & PBB, LTE Wall Brkt, TT-25', BMI STD,	1	5,598.50	5,598.50

Notes and Assumptions

If applicable, sales tax and freight, if included on the proposal, is an estimate and will be recalculated based on rates and tax status in effect at the time of invoicing.

Actual lead time to be provided at time of order.

To aid in processing your order, please include the Quote number on the PO that is submitted for this proposal.

If you would like to place an order, please contact us at Utilitymke@badgermeter.com or by calling 1-800-876-3837 Option 1.

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Bid Waiver One Time Today through _____

Description: _____

Requested Vendor: _____

Requested By: _____ Date: _____

Approval: _____

Department Head

Signature

Bid Waivers are required when there are unique circumstances related to a proposed procurement that has not been competitively solicited.

1. This procurement is valued at \$_____ for this one-time order, and/or \$_____ for a 12-month period.
2. This good/service has been competitively solicited within the past 24 months. YES NO
If Yes, Was the solicitation published on the city website? YES NO

3. Justification for Bid Waiver:

Emergency i.e. declared by the Mayor and applicable to EOC/FEMA procedures.

Urgent i.e. required to resolve an unanticipated problem that, if not resolved within 48 hours, may cause undue risk to individuals and/or extensive damage to property.

Need for these goods/services were **not anticipated and procurement through normal channels would take too long.**

A responsible **contractor was on site** performing a related repair, and based on professional judgement; it was prudent to request this service/repair from said contractor.

These goods are replacement parts for a **warrantied item, and the warranty is still in place**, and purchase of a non-brand item will jeopardize warranty.

These goods/services are **inherently related to, and an ongoing part of**, other goods/services previously provided by the Provider.

These goods utilize a **proprietary, patent, trademark, or customized programming** resulting in lack of competition.

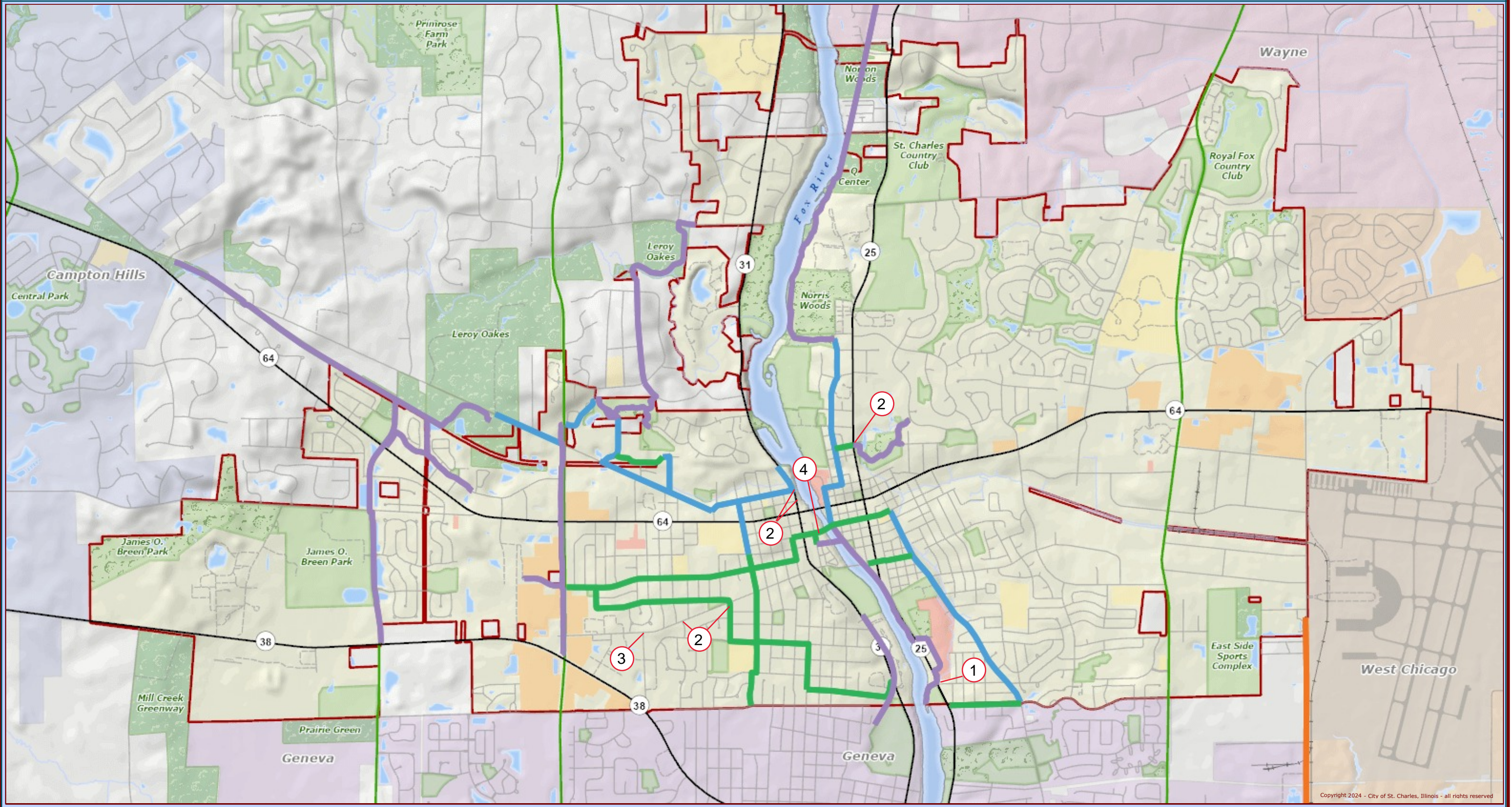
These goods are **standardized** for operational safety and efficiency.

These goods are only available through the provider's **local distribution** channels.

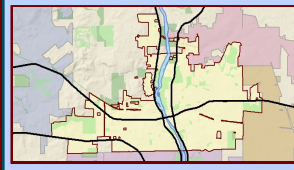
These goods/services were purchased through a **Cooperative Purchasing Agreement.** _____

Other: _____

 <p>CITY OF ST. CHARLES ILLINOIS • 1834</p>	AGENDA ITEM EXECUTIVE SUMMARY		Agenda Item number: 5.D
	Title:	Presentation of 2024 Bicycle and Pedestrian Improvements	
	Presenter:	Chris Gottlieb, Public Works Manager, Engineering	
Meeting: Government Services Committee		Date: June 24, 2024	
Proposed Cost: \$		Budgeted Amount:	Not Budgeted: <input type="checkbox"/>
TIF District: None			
Executive Summary (if not budgeted, please explain):			
<p>Staff will provide a brief information presentation regarding the bicycle and pedestrian improvements proposed to take place in this fiscal year.</p>			
Attachments (please list):			
<p>*Map of 2024 Bicycle and Pedestrian Improvements</p>			
Recommendation/Suggested Action (briefly explain):			
None			



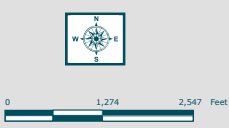
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


Data Source:
City of St. Charles, Illinois
Kane County, Illinois
DuPage County, Illinois

Coordinate System: Illinois State Plane East
Projection: Transverse Mercator
North American Datum 1983

Printed On: June 7, 2024 11:51



Striping and Signage Projects

-  Blue - St Charles on-street bike route. To be signed and striped unless otherwise noted
-  Green - Proposed connections. To be striped
-  Purple - Off-street path or maintained by others. For reference only.
-  Orange - Kautz Road multi-use path

 Crossing Improvement

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2024 Bike and Pedestrian Projects

Striping and Signage

Blue highlighted routes – These are officially designated routes which are included on Kane County’s bicycle, highway, and transit maps. These routes will be painted with sharrows and have bicycle route signs installed as part of the 2024 striping program.



Green highlighted routes – These routes are not officially designated bike routes but have been identified either in the Bike and Pedestrian Plan or through user data to be key connection routes. These will be painted with sharrows as part of the 2024 striping program.

Purple highlighted routes – These are routes are either off-street or owned and maintained by others. They are provided as a visual to show key bike and pedestrian network connections. No work will be performed on these routes.

Multi-use Paths

Orange highlighted route – The Kautz Road reconstruction project will install a multi-use path completing the connection from the Illinois Prairie Path in Geneva to Main Street St. Charles.

Crossings

① Riverside Ave (IL-25) Crossing Realignment – The existing multi-use path has a skewed crossing at Riverside Avenue just north of Moore Avenue. Skewed crossings greatly increase the amount of time that pedestrians and cyclists spend in the street. As part of the Riverside Culvert Improvement Project, the crossing will be realigned to be perpendicular to the street, reducing the crossing distance by 40%.


② Various intersection improvements – The City received grant money from the Department of Commerce and Economic Opportunity for bike and pedestrian improvements. This money is being used to upgrade six key pedestrian crossings identified in the Bike and Pedestrian Plan. The upgrades include new Rapid Rectangular Flashing Beacons, striping, and ADA improvements. Due to the timeline for permitting, these improvements will likely start in Spring of 2025.



③ Prairie St. and 14th St. – A refuge island is being installed on the west side of the intersection to facilitate safe pedestrian crossings.



④ Illinois Street Mid-Block Crossing - The City has selected a consultant to perform a Phase I study to determine if a crossing at this location can be constructed safely. Depending on the results of this study, the consultant will do a Phase II design for the chosen improvement with an eye toward construction in spring of 2025.

 <p>CITY OF ST. CHARLES ILLINOIS • 1834</p>	AGENDA ITEM EXECUTIVE SUMMARY		Agenda Item number: 5.E
	Title:	Recommendation to Approve a Resolution Authorizing a Design Engineering Contract for Phase II Design for 12th and Dean Stormwater Improvements Project	
	Presenter:	Chris Gottlieb, Public Works Manager, Engineering	
Meeting: Government Services Committee		Date: June 24, 2024	
Proposed Cost: \$ 242,890		Budgeted Amount: \$250,000	Not Budgeted: <input type="checkbox"/>
TIF District: None			
Executive Summary (if not budgeted, please explain):			
<p>Due to historical urban stormwater issues within the State Street Creek watershed, the City has been working toward implementation of flood reduction measures. In 2022 the City hired HR Green to do a Phase I alternative analysis and concept level design of the drainage near the intersection of 12th Street and Dean Street. This area has flooded multiple times in smaller rain events. The State Street Creek Stormwater Master Plan calls for large-scale storm sewer up sizing in this area. The City requested concepts that will both improve the drainage at this intersection and lay the groundwork for future upstream improvements.</p> <p>After reviewing the Phase I analysis, Engineering staff chose the concept that best-balanced constructability, cost, and level of service. They then requested a proposal from HR Green to provide Phase II design services for this work. After reviewing the conditions of the other City utilities on 12th Street, the design was expanded to include sanitary sewer, water main, and lead line replacements as well as roadway reconstruction.</p> <p>HR Green has designed multiple stormwater projects for the City including the 7th Avenue Creek Flood Reduction Project and this year's Riverside Culvert Replacement Project. Having provided the Phase I engineering, they have a detailed understanding of what is necessary to successfully complete Phase II. Staff recommends awarding Phase II design to HR Green in an amount not to exceed \$242,890.</p>			
Attachments (please list):			
*Bid Waiver			
Recommendation/Suggested Action (briefly explain):			
Recommendation to approve a resolution authorizing a Design Engineering Contract with HR Green for the 12 th and Dean Stormwater Improvements Project in an amount not to exceed \$242,890.			



Bid Waiver One Time Today through _____

Description: _____

Requested Vendor: _____

Requested By: _____ Date: _____

Approval: _____

Department Head

Signature

Bid Waivers are required when there are unique circumstances related to a proposed procurement that has not been competitively solicited.

1. This procurement is valued at \$_____ for this one-time order, and/or \$_____ for a 12-month period.
2. This good/service has been competitively solicited within the past 24 months. YES NO
If Yes, Was the solicitation published on the city website? YES NO

3. Justification for Bid Waiver:

Emergency i.e. declared by the Mayor and applicable to EOC/FEMA procedures.

Urgent i.e. required to resolve an unanticipated problem that, if not resolved within 48 hours, may cause undue risk to individuals and/or extensive damage to property.

Need for these goods/services were **not anticipated and procurement through normal channels would take too long.**

A responsible **contractor was on site** performing a related repair, and based on professional judgement; it was prudent to request this service/repair from said contractor.

These goods are replacement parts for a **warrantied item, and the warranty is still in place**, and purchase of a non-brand item will jeopardize warranty.

These goods/services are **inherently related to, and an ongoing part of**, other goods/services previously provided by the Provider.


These goods utilize a **proprietary, patent, trademark, or customized programming** resulting in lack of competition.


These goods are **standardized** for operational safety and efficiency.

These goods are only available through the provider's **local distribution** channels.

These goods/services were purchased through a **Cooperative Purchasing Agreement.** _____

Other: _____

 <p>CITY OF ST. CHARLES ILLINOIS • 1834</p>	AGENDA ITEM EXECUTIVE SUMMARY		Agenda Item number: 5.F				
	Title:	Recommendation to Approve a Resolution Awarding the Bid for the Final Clarifiers Rehabilitation					
	Presenter:	Tim Wilson, Public Works Manager, Environmental Services					
Meeting: Government Services Committee		Date: June 24, 2024					
Proposed Cost: \$ 1,899,000		Budgeted Amount: \$ 2,100,000	Not Budgeted: <input type="checkbox"/>				
TIF District: None							
Executive Summary (if not budgeted, please explain):							
<p>The final clarifiers are located at the Main Treatment Plant and is the final step in the treatment. In general, final clarifiers are a settling tank with mechanical equipment to removing solids. During this step, solids sink to the bottom of the settling tank. The solids are removed by a large rotating steel arm. This project is to repair and replace the steel mechanical equipment inside of the settling tank.</p> <p>On May 7th the City advertised for bids for the following scope of services. Replace existing clarifier mechanisms, drives, submerged components inlet port baffles. Paint the existing bridge for each clarifier. Replace the existing sluice gate valves in the outlet structure for the Final Clarifiers.</p> <p>On June 4th the City received two bids from the following contractors:</p> <table border="1" data-bbox="170 1123 911 1205"> <tr> <td><i>Manusos General Contracting</i></td> <td>\$ 1,899,000.00</td> </tr> <tr> <td><i>John Burns Construction Company</i></td> <td>\$ 2,049,800.00</td> </tr> </table> <p>Manusos has been a long-term wastewater plant service provider for the Fox Valley. Over the last 30 years the firm has provided service contracts for the wastewater plant expansions and rehabilitation work. The contractor experience also includes several other public projects including public buildings, the Navy and private development. City staff hasn't work with this contractor, but the City's representing design engineer of Trotter and Associates have completed several projects with Manusos.</p> <p>Based on the bid submittal, references, and our engineer's recommendation including past performance, City Staff recommends awarding the contract to Manusos General Contracting.</p>				<i>Manusos General Contracting</i>	\$ 1,899,000.00	<i>John Burns Construction Company</i>	\$ 2,049,800.00
<i>Manusos General Contracting</i>	\$ 1,899,000.00						
<i>John Burns Construction Company</i>	\$ 2,049,800.00						
Attachments (please list): None							
Recommendation/Suggested Action (briefly explain):							
Recommendation to Approve a Resolution Awarding the Bid for the Final Clarifier Rehabilitation to Manusos General Contracting in the amount of \$ 1,899,000.							

 <p>CITY OF ST. CHARLES ILLINOIS • 1834</p>	AGENDA ITEM EXECUTIVE SUMMARY		Agenda Item number: *5.G
	Title:	Recommendation to Approve a Resolution Authorizing a Contract Amendment with Benesch for Prairie Bridge Repairs Construction Engineering	
	Presenter:	Chris Gottlieb	
Meeting: Government Services Committee		Date: June 24, 2024	
Proposed Cost: \$ 26,050		Budgeted Amount: \$26,050	Not Budgeted: <input checked="" type="checkbox"/>
TIF District: None			
Executive Summary (if not budgeted, please explain):			
<p>The City has contracted with Benesch to provide supplemental construction engineering coverage for the Prairie Bridge Repairs Project. Due to current staffing in the Engineering department, it is necessary to increase their CE services from supplemental to complete.</p> <p>The amendment request is for \$26,050 in addition to the existing contract of \$24,655 for a total of \$50,705.</p>			
Attachments (please list):			
*Change Order			
Recommendation/Suggested Action (briefly explain):			
Recommendation to approve a Resolution Authorizing a Contract Amendment with Benesch for Construction Engineering Services in the amount of \$26,050.			

City of St Charles CHANGE ORDER: Prairie Bridge Repairs CE

Contract # PO#

This document is incorporated into the above contract as an amendment to the Contract between the City and the Contractor/Professional Service Provider commencing on the date the last party signs this document. Any change to the character, form, quality, extent, or cost of the Service/Project shall be in writing and approved on this form.

1. This Change Order is required due to (check all that apply):

- Changed / Unforeseen Condition
- Change in Scope
- Errors and Omissions
- Renewal / Extension of Services

2. The effect of this change is (check all that apply):

- Total Cost is increased by \$ 26,050
- Material is increased by \$ _____
- Emergency Change, not to exceed \$ _____
- Extension of _____ (calendar / work) days
- Extension of Completion Date from _____ to _____

3. Attachments Supporting Change Order (check all that apply)

- Contractor's Proposal
- other: _____
- Description of Change (include Drawing if applicable)

Change in Price		Change in Completion (days / calendar date)	
Original Price <i>(reference Agreement cover page)</i>	\$ <u>24,655</u>	a	Original: #days until completion / calendar date for completion <i>(reference date of Work May Proceed)</i> _____
Current Price resulting from Prior Change Orders <i>(reference prior Change Order line d)</i>	\$ <u>24,655</u>	b	Current Completion resulting from Prior Change Orders: <i>(reference prior Change Order line d)</i> _____
Net Increase/decrease of this Change Order <i>(reference above #2)</i>	\$ <u>26,050</u>	c	Net increase/decrease of days for this Change Order <i>(reference above #2)</i> _____
New Price inclusive of this Change Order* <i>d=(b+c)</i>	\$ <u>50,705</u>	d	New Time of Completion inclusive of this Change Order <i>d=(b+c)</i> _____
Cumulative Price change since execution* <i>e=(d-a)</i>	\$ <u>26,050</u>	e	Cumulative Time of completion since execution (expressed as total days)** <i>e=(d-a)</i> _____
*if the total price (d) exceeds \$25,000, and has not been approved by council, council approval is required. *If the cumulative price change (e) exceeds 10% or \$25,000, or exceeds an approved contingency, council approval is required.		**if the cumulative change in days of completion exceeds the contracted dates for completion, are Liquidated Damages applicable? Yes/ No	

All parties hereby acknowledge and agree this Change Order is inclusive of all known changes to scope, compensation and work schedule on behalf of the undersigned and Contractor's supplier, subcontractor, consultant, and agent necessary to complete the Project/Service. All parties hereby acknowledge that this Change Order is incorporated into the previously executed Contract by the signature of the parties below.

City Project Manager  Date 6/10/24

Contractor/Professional Service Provider  Date 6/10/24



1230 East Diehl Road, Suite 109
Naperville, IL 60563
www.benesch.com
P 630-577-9100
F 630-577-9199

April 11, 2024

Mr. Chris Gottlieb, PE
Public Works Manager – Engineering
City of St. Charles
2 East Main Street
St. Charles, IL 60174

Subject: Prairie Street Bridge Repairs – CM

Dear Mr. Gottlieb:

Benesch is pleased to submit this proposal to provide the City of St. Charles (City) with construction engineering services for repairs of the existing Prairie Street bridge over the Fox River (SN 045-6855). Attached you will find the Scope of Services and Fee Estimate (Attachment A) required to successfully complete the project. Your authorization to proceed with these services constitutes an acceptance of the Standard Terms and Conditions for Professional Services (Attachment B) which are incorporated and made a part of this agreement.

If the scope, schedule, fee, and conditions are acceptable to the City, please sign and return one copy for our records. We thank you for the opportunity to work with the City on this assignment. If you have any questions or we can be of further assistance, please do not hesitate to call.

Very truly yours,

Andrew Keaschall, PE, SE, VMA
Senior Vice President

City of St. Charles

Signature

Name

Title

Date

AJK:dms/dg

Attachment A: Scope of Services and Fee Estimate
Attachment B: Standard Terms and Conditions for Professional Services

Scope of Services and Fee Estimate

The construction scope of work for the Prairie Street over the Fox River bridge repair work includes, but is not limited to: maintenance of traffic, debris containment, epoxy crack injection, protective coat, installation of inlet filters, cleaning and painting exposed rebar, structural repair of concrete, deck slab repairs, cleaning of bridge scuppers and expansion joints, pedestrian rail removal and replacement, sidewalk inlay and other bridge repairs shown on the plans and specifications.

The project will be administered by the City of St. Charles (City).

The project duration is assumed to be three months in calendar year 2024, with the addition of two weeks for pre-construction activities and two weeks for post-construction activities, which would include punch list. It is our understanding that the City would like part time construction observation of the construction activities.

Benesch will provide part-time Phase III services in support of the City's engineering team. These services may include the following tasks and responsibilities when needed:

Pre-Construction Phase

- Review Contractor's submittals
- Review site conditions to ascertain that such conditions are stated accurately in the Project Documents and establish/record the existing conditions of the Project site prior to the performance of Work by the Contractor (Deliverable: Document with photos)
- Attend various Project meetings when requested by the City
- Review the Contractor's quality control plan for compliance
- Contractor or the City is responsible for any required permits

Construction Phase

- Review Submittals for completeness, accuracy, and compliance with the requirements of the Project Documents
- Make entries in the Field Diary of construction activity when visiting the site
- Perform periodic traffic control inspections
- Monitor and log Material Certifications
- Inspect Incorporated Materials for compliance with the requirements of the Project Documents when observed during site visits
- Contractor is responsible for quality control of materials
- Inspect the Work performed by the Contractor for compliance with the Project Documents for the construction activities performed while Benesch personnel is present on-site
- Attend any construction meetings required for the project
- Track the Contractor's progress and schedule
- Make recommendations for contract change orders if necessary
- Review and respond to Project Correspondence in a timely and professional manner consistent with the requirements of the Project Documents if requested by the City
- Draft Project Memoranda consistent with the terms of this Contract, industry standards, and the Project Documents if requested by the City
- Review and issue "Requests for Information" (RFIs) promptly upon receipt from the Contractor
- Review Monthly Pay applications for accuracy and completeness, and make recommendation to the City for payment



- Prepare and issue Preliminary and Final Punch Lists
- Contractor responsible for coordination with utilities
- Perform such Public Relations Duties as may be required by the City and industry practice
- Assist with resolution of Design/Coordination Issues with Contractor and the Engineer, all in a manner consistent with the Project Documents

Post Construction Phase (Deliverables)

- Review all As-Builts prepared by the contractor for compliance with the Project Documents
- Inspector’s Field Diary (from days that we are physically on site)
- Meeting minutes
- RFI log
- Materials/submittals logs
- Check Punch List Work for compliance
- Project closeout

Note: The Phase III Services do not include the following:

- Full time coverage of Contractor’s work
- Quality assurance testing

Fee Estimate

Benesch has developed a fee estimate based on the assumed project duration with an allowance for weekly support from field personnel. This estimate assumes that not all of the bulleted tasks and responsibilities listed above will be needed/requested by the City, as completion of all tasks would correlate more directly with a full-time CM role on site.

Benesch will perform work on this contract utilizing a billable hourly rate table with a not-to-exceed amount of **\$50,705** as itemized below (2024 rates and dollars), which includes in-house direct costs and vehicle usage. Outside direct costs by Benesch are not anticipated nor included in this proposal. Invoicing will be completed on a monthly basis; additionally, budget updates will be provided to the City at key points in the project (i.e., completion of each phase) to monitor expenditure and level of service being provided.

Additional services or modifications to the agreement, including associated costs, shall be in writing and signed by both parties prior to beginning the work.

Project Manager	@ \$260.00/HR	@ 16 hours	= \$4,160
Part Time Resident Engineer	@ \$165.00/HR	@ 256* hours	= \$42,240
Design Engineer	@ \$180.00/HR	@ 12** hours	= \$2,160
Direct Cost – Vehicle	@ \$65.00/DAY	@ 33 days	= \$2,145
			Total = \$50,705

* assumes 16 hours per week for 16 weeks

** assumes 6 RFIs at 2 hours/RFI, with no design submittal reviews



ATTACHMENT B - STANDARD TERMS AND CONDITIONS FOR PROFESSIONAL SERVICES

SECTION 1 – Services by Consultant

1.1 General

Consultant shall provide services under this Agreement only upon request of the Client, and only to the extent defined and required by the Client. These services may include the use of outside services, outside testing laboratories, and special equipment.

Attachments to this Agreement are as identified on the signature page to this Agreement or using serially numbered Work Authorizations, and with these GENERAL CONDITIONS, are all as attached hereto, and made a part of this Agreement.

1.2 Scope of Services and Fees

The services to be performed by Consultant and the associated fee are attached hereto and made a part of this Agreement or by using serially numbered Work Authorizations, all as identified on the signature page to this Agreement, and shall be performed by the Consultant in accordance with the Client's requirements. The Scope of Services and Fee Estimate (Attachment A) is valid for sixty (60) days, after which Consultant reserves the right to revise the Scope or Fee Estimate.

It is mutually understood that Consultant's fee is not a firm contractual amount, except the total fee by the Consultant shall not be exceeded unless authorized in writing by the Client. The intent of the Scope of Services is to identify the services to be provided by Consultant. However, it is specifically understood that by written notice to Consultant, Client can decrease or, with concurrence of Consultant, increase the Scope of Services.

SECTION 2 – Payments to Consultant

2.1 Method of Payment

Payment for Consultant's personnel services and direct expenses shall be based on the Method of Payment which is identified on the signature page to this Agreement or serially numbered Work Authorizations, attached hereto, and made a part of this Agreement.

2.2 Payment for Personnel Services

2.2.1 Payment

Payment for the services rendered by Consultant's personnel shall be based on the hours of chargeable time and in accordance with Consultant's Schedule of Unit Rates, which is identified on the signature page to this Agreement and attached hereto, and made a part of this Agreement.

2.2.2 Chargeable Time

Chargeable time for Consultant's personnel is that portion of their time devoted to providing services requested by Client. Chargeable time for field personnel located away from Consultant's office for more than one week is a minimum of eight hours per day and five days per calendar week, except for Consultant observed legal holidays or during an employee's sick leave or vacation time. Travel

time from Consultant's office to an assigned work site, and return to Consultant's office, is chargeable time; or if more economical for Client, Consultant shall lodge its personnel overnight near the work site in lieu of traveling back to Consultant's office at the end of each work day.

2.2.3 Overtime Rates

The basis for payment to Consultant for each hour worked in excess of forty (40) hours in any calendar week shall be the applicable hourly rate as specified in the Schedule of Unit Rates.

2.3 Payment for Direct Expenses

2.3.1 Payment

For Direct Expenses incurred by Consultant, payment to Consultant by the Client shall be in accordance with Consultant's Schedule of Unit Rates.

2.3.2 Direct Expenses

For the purposes of this Agreement, Direct Expenses to be contracted and managed by Consultant and payable by Client to Consultant shall include: Outside Services including the services and reimbursable expenses for firms other than Consultant which are necessary for the work the Consultant is directed to perform; Laboratory Tests and related reports necessary for the work the Consultant is directed to perform, either by the Consultant or by an outside service for the Consultant; Special Equipment expenses including the costs of the Consultant locating, acquiring, leasing, or renting any equipment or facilities not currently owned, leased, or rented by Consultant at the time of the request for services which are necessary to enable Consultant to provide the services requested; vehicles furnished by Consultant for Consultant's authorized travels and for Consultant's field personnel; Per Diem expense or actual costs of maintaining Consultant's field personnel on or near the Project site, for each day of field assignment away from Consultant's office; and Other Direct Expenses associated with all services provided hereunder and identified in the Schedule of Unit Rates.

2.4 Payment Conditions

2.4.1 Consultant shall submit monthly invoices for all personnel services and direct expenses under this Agreement and a final invoice upon completion of services.

2.4.2 Invoices are due and payable upon receipt by Client. Interest at a rate of 1.5% per month, or the maximum allowed by law, will be charged on all past due amounts starting thirty (30) days after date of invoice. Payments will first be credited to interest and then to principal.

2.4.3 In the event of a disputed or contested invoice, Client must provide written notice to Consultant within ten (10) days of the date of any invoice, otherwise the invoice will be considered to be correct. In the event Client timely submits in writing a dispute on a particular invoice, only that portion so contested will be withheld from payment and the Client will pay the undisputed portion. No interest will accrue on any reasonably contested portion of the invoice until mutually resolved.

2.4.4 If Client fails to make payment in full to Consultant of amounts owed pursuant to this Section 2 within forty-five (45) days of the date of the invoice, Consultant may, after giving seven (7) days' written notice to Client, suspend services under this Agreement until paid in full, including interest. Consultant shall have no liability to Client for delays or damages caused by such suspension of services. Client agrees to pay all costs of collection, including reasonable attorney's fees, incurred by Consultant as a result of Client's failure to make payments in accordance with this Agreement. No final plans, documents or reports will be released for any purpose until Consultant has been paid in full.

2.4.5 The billing rates specified in the Schedule of Unit Rates for subsequent years shall be adjusted annually in accordance with Consultant's costs of doing business, subject to Client's review and concurrence.

SECTION 3 - Term of Agreement

3.1 Term

Consultant's obligations to perform under this Agreement shall extend from the date of execution until terminated by either party.

3.2 Abandonment of Work

Client shall have the absolute right to abandon any work requested hereunder or to change the general scope of the work at any time, and such action on its part shall in no event be deemed a breach of contract.

3.3 Termination of Agreement

3.3.1 Termination with Cause

The obligation to provide further services under this Agreement may be terminated with cause by either party by written notice stating the basis for the termination and providing 7 days to cure. The termination will be effective seven (7) days after delivery of written notice thereof if the basis for the termination has not been cured. In the event of termination by Consultant caused by failure of the Client to perform in accordance with the terms of this Agreement, Client shall pay for all services performed prior to the effective date of the termination, including all project termination expenses, collection fees and legal expenses. Consultant shall prepare a progress report, including information as to all the services performed by Consultant and the status of the services as of the date of the termination, and provide information and documents developed under the terms of this Agreement to the Client upon receipt of final payment. In the event of termination by the Client caused by failure by Consultant to perform in accordance with the terms of this Agreement, Consultant shall prepare a progress report, including information as to all the services performed by Consultant and the status of the services as of the date of the termination and provide information and documents developed under the terms of this Agreement to the Client. Upon receipt of all other information and documents, Client shall pay Consultant for services performed prior to the effective date of the termination.

3.3.2 Termination without Cause

Either party may, at its sole discretion, terminate this

Agreement without cause at any time. In the event of such termination, the terminating party will promptly notify and confirm the termination in writing to the other party. The termination will be effective seven (7) days after delivery of written notice thereof. Upon termination, Consultant shall prepare a progress report, including information as to all the services performed by Consultant and the status of the services as of the date of the termination, and provide information and documents developed under the terms of this Agreement to the Client upon receipt of final payment.

3.4 Payment for Work Upon Abandonment or Agreement Termination

If Client abandons requested work or terminates this Agreement, Consultant shall be paid on the basis of work completed to the date of abandonment or effective date of termination. Consultant shall perform no activities other than reasonable wrap-up activities after receipt of notice of abandonment or termination. Payment for the work shall be as established under Section II.

SECTION 4 - General Considerations

4.1 Assignment and Responsibility for Personnel

4.1.1 The assignment of personnel and all phases of the undertaking of the services which Consultant shall provide hereunder shall be subject to the oversight and general guidance of Client.

4.1.2 While upon the premises of Client or property under its control, all employees, agents, and subconsultants of Consultant shall be subject to Client's rules and regulations respecting its property and the conduct of its employees thereon.

4.1.3 However, it is understood and agreed that in the performance of the work and obligations hereunder, Consultant shall be and remain an independent Consultant and that the employees, agents or subconsultants of Consultant shall not be considered employees of or subject to the direction and control of Client. Consultant shall be responsible for the supervision and performance of all subconsultants which are to perform hereunder.

4.2 Insurance

4.2.1 Consultant shall furnish Client a certificate of insurance upon request showing amounts and types of insurance carried by Consultant, which certificate shall contain a commitment by the Insurance Company that during the time any work is being performed by Consultant under this Agreement it will give Client notice of cancellation or non-renewal of the insurance coverage shown on such certificates in accordance with policy provisions.

4.2.2 Any construction contracts relative to Consultant's Services shall require that the Client and Consultant be included as additional insureds on the contractor's and contractor's subcontractors' commercial general liability and commercial automobile liability insurance policies and that the coverage afforded Client and Consultant is primary to any insurance maintained by Client or Consultant and that Client and Consultant's insurance is non-contributory with any coverage afforded by contractor and subcontractors. Client will also require contractor and all subcontractors to purchase and maintain workers' compensation and employer's liability insurance.

Consultant will name the Client as additional insured on Consultant's commercial general liability insurance.

4.3 Successors and Assigns

4.3.1 Client and Consultant each binds itself and its partners, successors, executors, administrators, assigns, and legal representatives to the other party to this Agreement and to the partners, successors, executors, administrators, assigns, and legal representatives of such other party, in respect to all covenants, agreements, and obligations of this Agreement.

4.3.2 Neither Consultant nor Client shall assign or transfer any rights under or interest in (including, but without limitation, moneys that may become due or moneys that are due) this Agreement without the written consent of the other party, except as stated in paragraph 4.3.1 and except to the extent that the effect of this limitation may be restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement. Nothing contained in this paragraph shall prevent Consultant from employing such independent consultants, associates, and subconsultants as it may deem appropriate to assist in the performance of services hereunder.

4.3.3 Nothing herein shall be construed to give any rights or benefits hereunder to any one other than Client and Consultant except as otherwise provided herein.

4.4 Compliance with Law

4.4.1 Consultant shall exercise the professional standard of care to comply with, and cause its subconsultants to comply with, applicable Federal, state, and local laws, orders, rules, and regulations in effect at the time services are rendered, and relating to the performance of the services Consultant is to perform under this Agreement. If the Scope of Services requires Consultant to prepare an application for a permit, Consultant does not represent or warrant that said permit or approval will be issued by any governmental body.

4.4.2 Neither the Consultant nor the Consultant's agents or employees shall discriminate against any employee or applicant for employment to be employed in the performance of this Agreement with respect to hiring, tenure, terms, conditions, or privileges of employment, because of race, color, religion, sex, or national origin.

4.5 Ownership and Reuse of Documents

4.5.1 All drawings, specifications, test reports, and other materials and work products which have been prepared or furnished by Client prior to this Agreement shall remain Client's property. Consultant shall be permitted to rely on Client furnished documents and Client shall make available to Consultant copies of these materials as necessary for the Consultant to perform the services requested hereunder.

4.5.2 All drawings, specifications, test reports, and other materials and work products, including computer aided drawings, designs, and other data filed on electronic media which will be prepared or furnished by Consultant (and Consultant's independent professional associates and subconsultants) under this Agreement, are instruments of

service in respect to the Project and Consultant shall retain an ownership and property interest therein whether or not the Project is completed. Client may make and retain copies for information and reference in connection with the use and the occupancy of the Project by Client and others; however, such documents are not intended or represented to be suitable for reuse by Client or others acting on behalf of Client on extensions of the Project or on any other project. Further, Consultant makes no warranty as to the compatibility of computer data files with computer software and software releases other than that used by Consultant in performing services herein, and to the condition or availability of the computer data after an acceptance period of thirty (30) days from delivery to Client. Any reuse without written verification or adaptation by Consultant for the specific purpose intended will be at Client's sole risk and without liability or legal exposure to Consultant or to Consultant's independent professional associates or subconsultants, and Client shall indemnify and hold harmless Consultant and Consultant's independent professional associates and subconsultants from all claims, damages, losses, and expenses including attorneys' fees arising out of or resulting therefrom. Any such verification or adaptation will entitle Consultant to further compensation at rates to be agreed upon by Client and Consultant.

4.6 Consultant's Personnel at Project Site

4.6.1 The presence or duties of the Consultant personnel at a Project site, whether as onsite representatives or otherwise, do not make the Consultant or its personnel in any way responsible for those duties that belong to the Client and/or the construction contractors or other entities, and do not relieve the construction contractors or any other entity of their obligations, duties, and responsibilities, including, but not limited to, all construction methods, means, techniques, sequences, and procedures necessary for coordinating and completing all portions of the construction work in accordance with the project documents and any health or safety precautions required by such construction work. The Consultant and its personnel have no authority to exercise any control over any construction contractor or other entity or their employees in connection with their work or any health or safety precautions and have no duty for inspecting, noting, observing, correcting, or reporting on health or safety deficiencies of the construction contractor or other entity or any other persons at the site except Consultant's own personnel.

4.6.2 To the extent Consultant's Scope of Work includes construction observation, the Consultant shall keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and report to the Owner (1) known deviations from the Contract Documents and from the most recent construction schedule submitted by the Contractor, and (2) defects and deficiencies observed in the Work. Consultant neither guarantees the performance of the contractor(s) nor assumes responsibility for contractor(s)' failure to perform their work in accordance with the project documents.

4.7 Opinions of Cost, Financial Considerations, and Schedules

In providing opinions of cost, financial analyses, economic feasibility projections, and schedules for the Project, the Consultant has no control over the cost of labor, materials, equipment, or services furnished by others, or over the Contractor(s)' methods of determining prices, or over competitive bidding or market conditions. Consultant's opinions of probable Total Project Costs and Construction Costs provided for herein as appropriate are made on the basis of Consultant's experience and qualifications and represent Consultant's judgments as an experienced and qualified professional consultant familiar with the construction industry. Consultant makes no warranty that the Client's actual Total Project or Construction Costs, financial aspects, economic feasibility, or schedules will not vary from the Consultant's opinions, analyses, projections, or estimates. If Client wishes greater assurance as to any element of the Total Project or Construction cost, feasibility, or schedule, Client will employ an independent cost estimator, contractor, or other appropriate advisor.

4.8 Discovery of Unanticipated Pollutant and Hazardous Substance Risks

4.8.1 If Consultant, while performing the services, discovers pollutants and/or hazardous substances that pose unanticipated risks, it is hereby agreed that the scope of services, schedule, and the estimated cost of Consultant's services will be reconsidered and that this Agreement shall immediately become subject to renegotiation or termination.

4.8.2 In the event that the Agreement is terminated because of the discovery of pollutants and/or hazardous substances posing unanticipated risks, it is agreed that Consultant shall be paid for its total charges for labor performed and reimbursable charges incurred to the date of termination of this Agreement, including, if necessary, any additional labor or reimbursable charges incurred in demobilizing.

4.8.3 Client also agrees that the discovery of unanticipated pollutants and/or hazardous substances may make it necessary for Consultant to take immediate measures to protect health and safety. Consultant agrees to notify Client as soon as practically possible should unanticipated pollutants and/or hazardous substances be suspected or encountered. Client authorizes Consultant to take measures that in Consultant's sole judgment are justified to preserve and protect the health and safety of Consultant's personnel and the public. Client agrees to compensate Consultant for the additional cost of taking such additional precautionary measures to protect employees' and the public's health and safety. This section is not intended to impose upon Consultant any duties or obligations other than those imposed by law.

SECTION 5 - Professional Responsibility

5.1 Performance of Services

Consultant shall perform its services consistent with the professional skill and care ordinarily provided by firms practicing in the same or similar locality under the same or similar circumstances (hereinafter the "Standard of Care").

Consultant expressly disclaims all express or implied warranties and guarantees with respect to the performance of professional services, and it is agreed that the quality of such services shall be judged solely as to whether the services were performed consistent with the Standard of Care. Consultant owes Client only that level of performance defined in this Section 5.1, and nothing herein shall be construed as creating a fiduciary relationship.

If at any time prior to construction Client believes Consultant's services are deficient due to not meeting the Standard of Care, Client must immediately inform Consultant in writing and shall afford Consultant the opportunity to correct such deficiency. If, upon review by Consultant it is determined there is a deficiency that fails to meet the standard of care and it is attributable to Consultant, the deficiency shall be corrected at no additional cost to Client.

5.2 Limitation of Liability

Client and Consultant agree to allocate certain of the risks so that, to the fullest extent permitted by law, Consultant's total liability to Client is limited to the amount paid under the contract or \$50,000 whichever is greater, this being the Client's sole and exclusive remedy for any and all injuries, damages, claims, losses, expenses, or claim expenses (including attorney's fees) arising out of this Agreement from any cause or causes. Such causes include, but are not limited to, Consultant's negligence, errors, omissions, strict liability, breach of contract, or breach of warranty.

5.3 No Special or Consequential Damages

Client and Consultant agree that to the fullest extent permitted by law neither party shall be liable to the other for any special, indirect, or consequential damages whatsoever, whether caused by either party's negligence, errors, omissions, strict liability, breach of contract, breach of warranty, or other cause or causes.

5.4 Indemnification

To the fullest extent permitted by law, Client and Consultant mutually agree to indemnify and hold each other harmless from and against any and all claims, damages, losses and expenses, defense costs including reasonable attorneys' fees, and court or arbitration costs and other liabilities arising from their own negligent acts, errors or omissions in performance of their services under this Agreement, but only to the extent caused that each party is responsible for such damages, liabilities and costs on a comparative basis of fault.

5.5 No Third Party Beneficiaries

Client and Consultant expressly agree that this Agreement does not confer upon any third party any rights as beneficiary to this Agreement. Consultant accepts no responsibility for damages, if any, suffered by any third party as the result of a third party's use of the work product, including reliance, decisions, or any other action taken based upon it.

Client agrees that Consultant's services and work products are for the exclusive present use of Client. Client agrees

that Consultant's compliance with any request by Client to address or otherwise release any portion of the work product to a third party shall not modify, rescind, waive, or otherwise alter provisions of this Agreement nor does it create or confer any third party beneficiary rights on any third party.

SECTION 6 - Miscellaneous Provisions

6.1 Notices

Any notice to either party herein shall be in writing and shall be served either personally or by registered or certified mail addressed to the signing party shown on the signature page.

6.2 Joint Preparation

For purposes of contract interpretation and for the purpose of resolving any ambiguity in this Agreement, the parties agree that this Agreement was prepared jointly by them and/or their respective attorneys.

6.3 Headings

Headings used in this Agreement are for the convenience of reference only and shall not affect the construction of this Agreement

6.4 Severability

If any of the provisions contained in this Agreement are held for any reason to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability will not affect any other provision, and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

6.5 Dispute Resolution

If negotiation in good faith fails to resolve a dispute within thirty (30) days of written notice of the dispute by either party, then the parties agree that, with the exception of claims that are subject to the applicable venue's small claims court jurisdiction, each dispute, claim or controversy arising from or related to this Agreement or the relationships which result from this Agreement shall be subject to mediation as a condition precedent to initiating legal or equitable actions by either party. Unless the parties agree otherwise, the mediation shall be in accordance with the Commercial Mediation Procedures of the American Arbitration Association then currently in effect. A request for mediation shall be filed in writing with the American Arbitration Association and the other party. No legal or equitable action may be instituted for a period of ninety (90) days from the filing of the request for mediation unless a longer period of time is provided by agreement of the parties. Cost of mediation shall be shared equally between the parties and shall be held in a location mutually agreed upon by the parties. The parties shall memorialize any agreement resulting from the mediation in a mediated settlement agreement, which agreement shall be enforceable as a settlement in any court having jurisdiction thereof.

During the pendency of any dispute, the parties shall continue diligently to fulfill their respective obligations

hereunder. Any dispute not resolved through mediation shall be subject to litigation in a court of competent jurisdiction in the state in which the project is located.

6.6 Equal Opportunity

Consultant will, in the performance of this Agreement, comply with federal, state, and local laws, and all regulations and orders issued under any applicable law related to equal employment opportunity, non-discrimination, or employment generally.

Consultant certifies that it will not knowingly employ or contract with a non-legal resident of the United States to perform work under this Agreement, and verifies or attempts to verify employee eligibility of its employees through participation in the U.S. Department of Homeland Security and Social Security Administration's E-Verify system.

6.7 Governing Law

This Agreement is to be governed by the laws of the jurisdiction in which the project is located. For locations outside of the United States, this Agreement shall be governed by the laws of the State of Illinois.

6.8 Entire Agreement

This Agreement, along with those documents specified, attached, or hereby cited together, and serially numbered Work Authorizations if used, constitute the entire Agreement between the parties hereto and no changes, modifications, extensions, terminations, or waivers of this Agreement, or other documents, or any of the provisions herein, or therein contained, shall be valid unless made in writing and signed by duly authorized representatives of both parties.

SUPPLEMENTAL CONDITIONS FOR SURVEY, ENVIRONMENTAL OR GEOTECHNICAL SERVICES

Supplemental Condition is incorporated herein when the applicable box is checked.

S.1 Location of Underground Utilities

It shall be the Client's responsibility to locate and physically mark all underground utilities and structures which lie within the work area prior to the start of subsurface investigations. If the Client elects not to assume this responsibility, Client shall notify Consultant and shall compensate Consultant for all costs associated with locating and physically marking said underground utilities and structures over and above the estimated project fee. Client shall indemnify and hold Consultant harmless from any damages and delays resulting from unmarked or improperly marked underground utilities and structures. For reasons of safety, Consultant will not begin work until this has been accomplished.

S.2 Subsurface Investigations

In soils, foundation, groundwater, and other subsurface investigations, the actual characteristics might vary significantly between successive test points and sample intervals and at locations other than where observations, exploration, and investigations have been made. Because of the inherent uncertainties in subsurface evaluations, changed or unanticipated underground conditions may occur that could affect Project cost and/or execution. These conditions and cost/execution effects are not the responsibility of the Consultant.

S.3 Disposition of Samples and Equipment

S.3.1 Disposition of Samples

No samples and/or materials will be kept by Consultant


longer than thirty (30) days after submission of the final report unless agreed otherwise.


S.3.2 Hazardous or Potentially Hazardous Samples and Materials

In the event that samples and/or materials contain or are suspected to contain substances or constituents hazardous or detrimental to health, safety, or the environment as defined by federal, state, or local statutes, regulations, or ordinances, Consultant will, after completion of testing, return such samples and materials to Client, or have the samples and materials disposed of in accordance with Client's directions and all applicable laws. Client agrees to pay all costs associated with the storage, transportation, and disposal of samples and materials. Client recognizes and agrees that Consultant at no time assumes title to said samples and materials, and shall have no responsibility as a handler, generator, operator, transporter, or disposer of said samples and materials.

S.3.3 Contaminated Equipment

All laboratory and field equipment contaminated in Consultant's performance of services will be cleaned at Client's expense. Contaminated consumables will be disposed of and replaced at Client's expense. Equipment (including tools) which cannot be reasonably decontaminated shall become the property and responsibility of Client. At Client's expense, such equipment shall be delivered to Client, or disposed of in the same manner specified in S.3.2 above. Client agrees to pay Consultant the fair market value of any such equipment which cannot reasonably be decontaminated and is delivered to Client pursuant to this Agreement.

 <p>CITY OF ST. CHARLES ILLINOIS • 1834</p>	AGENDA ITEM EXECUTIVE SUMMARY		Agenda Item number: *5.H
	Title:	Recommendation to Approve a Resolution Authorizing a Contract for the 2025 Geotechnical Investigations Program	
	Presenter:	Chris Gottlieb, Public Works Manager, Engineering	
Meeting: Government Services Committee		Date: June 24, 2024	
Proposed Cost: \$ 40,823		Budgeted Amount: \$50,000	Not Budgeted: <input type="checkbox"/>
TIF District: None			
Executive Summary (if not budgeted, please explain):			
<p>This work consists of conducting pavement cores and soil borings on streets which are being considered for inclusion in the 2025 Street Rehabilitation Program. The cores and soil borings provide vital data for determining the course of action on each of the streets being considered.</p>			
Bid Results:			
<p>On June 5, 2024, sealed bids for the 2025 Geotechnical Investigation Program were electronically submitted. The City received a total of four bids for this project, with the results shown below:</p>			
Rubino	\$40,822.50		
MSET	\$52,734		
ECS	\$65,350		
GSG	\$120,500		
<p>Rubino Engineering, of Elgin Illinois, has previously provided pavement cores and soil borings for the Street Rehabilitation Program. They are capable and qualified to complete the project. Investigation work is anticipated to begin in July with substantial completion in August.</p>			
Attachments (please list):			
None			
Recommendation/Suggested Action (briefly explain):			
<p>Recommendation to approve a Resolution authorizing a Contract with Rubino Engineering for the 2025 Geotechnical Investigations Program in the amount of \$40,823.</p>			

 <p>CITY OF ST. CHARLES ILLINOIS • 1834</p>	AGENDA ITEM EXECUTIVE SUMMARY		Agenda Item number: *5.I
	Title:	Recommendation to Approve Consultant Contract for Phase I and II Design for Illinois Avenue Midblock Crossing	
	Presenter:	Chris Gottlieb	
Meeting: Government Services Committee		Date: June 24, 2024	
Proposed Cost: \$ 36,914		Budgeted Amount: \$100,000	Not Budgeted: <input type="checkbox"/>
TIF District: None			
Executive Summary (if not budgeted, please explain):			
<p>The 2023 St. Charles Bicycle and Pedestrian Plan identified the intersection of the Fox River Trail and Illinois Avenue west of the Fox River as a high-priority location for improvement. This crossing is in a key location for people walking along the river to downtown businesses and the First Street Plaza. The site presents a number of challenges including ADA compliance, traffic volume, proximity to traffic signals, and sight distances. This proposal is for a Phase I study and Phase II design. Phase I will determine if a crossing can be safely added and, if so, what type of crossing treatments will be best suited for this location. Phase II will create plans and specifications for the chosen treatment that can then be put out for construction. The design will be completed with the goal of construction starting in early 2025.</p> <p>Requests for proposals were emailed to three qualified design firms. Two firms submitted proposals which were reviewed and ranked by the Public Works staff. Based upon their previous experience and project understanding, we found the most qualified consultant to be Civiltech, Inc. of Chicago, IL. Hourly rates provided were consistent with similar design contracts the City has administered in the past and project man-hours were negotiated by staff.</p> <p>Civiltech recently completed the City of St. Charles Bicycle and Pedestrian Plan as well as plans for downtown wayfinding improvements.</p> <p>Staff recommends awarding Phase I and II design to the most qualified consultant, Civiltech, in an amount not to exceed \$36,914.</p>			
Attachments (please list):			
None			
Recommendation/Suggested Action (briefly explain):			
Recommendation to approve a Resolution authorizing a Design Engineering Contract with Civiltech for the Illinois Avenue Midblock Crossing Project in an amount not to exceed \$36,914.			

 <p>CITY OF ST. CHARLES ILLINOIS • 1834</p>	AGENDA ITEM EXECUTIVE SUMMARY		Agenda Item number: *5.J
	Title:	Recommendation to Approve a Resolution Authorizing a Lease Agreement with the Fox Valley Aero Club	
	Presenter:	Tim Wilson	
Meeting: Government Services Committee		Date: June 24, 2024	
Proposed Cost: NA		Budgeted Amount: NA	Not Budgeted: <input type="checkbox"/>
TIF District: None			
Executive Summary (if not budgeted, please explain):			
<p>The Fox Valley Aero Club (FVAC) Radio Controlled flying field is located at 3831 Karl Madsen Drive in St. Charles, IL. About 11.5 acres of land is owned by the City of St Charles and is leased by the FVAC. The site features an 800 by 50-foot paved runway with a paved taxiway and pit area. The paved runway is paralleled by a 900 by 75- foot short grass runway. There is also a dedicated flight area for helicopters. The club maintains a covered pavilion with electricity. The field is open to members for flying from sunrise to sunset, 365 days a year.</p> <p>The FVAC has leased the land from the City for the last 20 years. The club has been good stewards of the property and have continued to maintain the land. The current lease expired in April 2024 and City staff have updated the new lease. The City attorney has reviewed and approved the proposed lease agreement.</p> <p>The lease is currently being reviewed by the FVAC, pending the final exhibit drawings and FVAC signatures. It is the City recommendation to approve the proposed lease agreement with the FVAC. This lease is 10-year agreement with an additional 10-year option.</p>			
Attachments (please list):			
*Proposed Lease Agreement			
Recommendation/Suggested Action (briefly explain):			
Recommendation to Approve Resolution Authorizing a Lease Agreement with the Fox Valley Aero Club.			

GROUND LEASE

THIS GROUND LEASE (hereinafter referred to as "lease"), is made and entered into this 7th day of July, 2024, by and between the **CITY OF ST. CHARLES**, an Illinois municipal corporation (hereinafter referred to as "Lessor"), and the **FOX VALLEY AERO CLUB**, an Illinois not-for-profit corporation (hereinafter referred to as "Lessee").

WITNESSETH:

WHEREAS, Lessor is an Illinois municipal corporation, which as a governing body from time to time, owns, leases, mortgages or otherwise deals in and with real estate of various nature and description; and

WHEREAS, Lessee is an Illinois not-for-profit corporation functioning in the nature of a model aviation club which offers and encourages membership among the general public, and engages in and carries on activities, which include but are not limited to, those set forth on Exhibit A attached hereto and made a part hereof (hereinafter singly and collectively referred to as the "club purposes"); and

WHEREAS, Lessor is the owner and record title holder of a tract of land located at the Southwest corner of Route 38 and Peck Road, located in the City of St. Charles, Kane County, Illinois (hereinafter referred to as "underlying land"), legally described on Exhibit B attached hereto and made a part hereof, and a map or survey of which is attached hereto and made a part hereof as Exhibit C; and

WHEREAS, Lessee is desirous of leasing a portion of the underlying land (hereinafter referred to as the "demised premises"), legally described on Exhibit D attached hereto and made a part hereof, and a map or survey of which is attached hereto and made a part hereof as Exhibit E; and

WHEREAS, Lessee is further desirous of acquiring from Lessor a non-exclusive easement over and upon that part of the underlying land not otherwise demised herein (hereinafter referred to as the "remainder"), legally described on Exhibit F, attached hereto and made a part hereof, and a map or survey of which is attached hereto and made a part hereof as Exhibit G, for such purposes as set forth on Exhibit H attached hereto and made a part hereof (hereinafter singly and collectively referred to as the "flyover purposes"); and

WHEREAS, Lessor has designated the demised premises for the purpose of creating a model aviation airfield open to the general public, and Lessor and Lessee are both desirous to promote the same in an orderly fashion through the Lessee;

THEREFORE, in consideration of the mutual covenants herein contained the parties agree as follows:

SECTION ONE

Recitals

1.1 The above recitals are hereby incorporated into and made a part of this Agreement.

SECTION TWO

Demise, Description, and Use

2.1 Lessor hereby leases to Lessee, subject to the conditions and provisions herein contained, the real estate situated in St. Charles, Kane County, Illinois and the legally described on Exhibit B, and depicted on Exhibit C, each attached hereto and made a part hereof.

2.2 Lessor hereby grants to Lessee, pursuant to the terms and subject to the conditions set forth in the Lease, a non-exclusive easement for flyover purposes (as fuller defined in the Lease), and legally described on Exhibit F, and depicted on Exhibit G, each attached hereto and made a part hereof.

2.3 Lessor grants to Lessee a non-exclusive ingress and egress from Illinois Route 38 to the demised premises over and across certain roadway known as Karl Madsen Drive, as generally depicted on Exhibit I, attached hereto and made a part hereof.

2.4 The demised premises is hereby demised and let to Lessee in an "as-is where-is" condition, without any representations or warranties from Lessor, except as otherwise contained herein. Lessee acknowledges that this lease is subordinate and subject to all liens, encumbrances, deed restrictions, and any law, regulation, rule, order or ordinance of any governmental entity applicable to the demised premises or the use or occupancy thereof, in effect on the execution of this lease or thereafter promulgated. Lessee has examined the title to the demised premises and has found the same satisfactory.

SECTION THREE

Term and Option to Renew

3.1 The initial term of this lease shall be for a period often (10) years, commencing on July 1, 2024, and ending on June 30, 2034. As used herein, the expression "term hereof" refers to such initial term and to any renewal thereof as hereinafter provided.

3.2 Lessor hereby grants to Lessee, subject to the conditions and provisions herein contained, the right and option to renew this lease for an additional term often (10) years, commencing July 1, 2034 and ending June 30, 2044 at a rental hereinafter set forth. The option must be exercised by Lessee giving to Lessor, a written notice of such exercise not less than one hundred eighty (180) days prior to the termination date of the initial term hereof.

SECTION FOUR

Rent Amount

4.1 The rent for the first year of the initial term shall be the amount of Three Thousand Sixty and no/100 Dollars (\$3,050.00) payable on July 1, 2024, and a like sum on the 1st day of July of each consecutive year thereafter until the end of the initial term; provided however, upon prior written notice to Lessee, Lessor reserves the right to increase the rent during the initial term beginning on July 1, 2025, and on the first day of July of each consecutive year thereafter, to the then fair market rental value of similarly situated unimproved land use for agricultural crop purposes.

4.2 The total rent for the successive ten (10) year term hereof and the terms of payment shall be, as follows: For the first year of the successive term Lessee shall pay to Lessor on July 1, 2034 an amount equal to the rent Lessee paid during the last year of the initial term of this lease, and a like sum on the 1st day of July of each consecutive year thereafter until the end of the successive term; provided however, upon prior written notice to Lessee, Lessor reserves the right to increase the rent beginning on April 1, 2034, and on the first day of April of each consecutive year thereafter, to the then fair market rental value of similarly situated unimproved land use for agricultural crop purposes.

4.3 All rent shall be paid to Lessor, at 2 E. Main Street, St. Charles, Illinois 60174 (Attn: Finance Department) or such other place or places as may be designated from time to time by Lessor.

4.4 Lessee shall not be required to make any security deposit.

4.5 The present rent amount is, and any future rent increase will be, calculated only upon the acreage comprising the demised premises. The consideration for the easement grant located upon the remainder is included in the rent.

SECTION FIVE **Warranties of Title and Quiet Possession**

5.1 Lessor covenants and warrants that Lessor is the record owner and title holder of the underlying land and demised premises and has full right to make this lease and that Lessee shall have quiet and peaceable possession of the demised premises during the term hereof; provided however, Lessor's covenant and warranty shall be subject to and limited by the public use of the underlying land and demised premises as set forth in this lease. Lessor agrees to enact no zoning regulation, restriction or other law directly governing and adversely affecting the intended use of the demised premises.

5.2 Lessor represents that the demised premises and remainder are located within the City limits of Lessor and under Lessor's sole jurisdiction, and that Lessor's present zoning laws, ordinances, regulations, laws, and the like, would include and allow Lessee to carry on its club purposes on the demised premises and flyover purposes with respect to the remainder.

5.3 Lessor represents that the demised premises and remainder presently qualify for the issuance of any required business, occupancy, or other regulatory license or permit necessary for engaging in and carrying on club purposes on the demised premises and flyover purposes with respect to the remainder, and Lessor shall immediately issue the same to Lessee at the commencement date of the initial term of this lease.

SECTION SIX

Uses

6.1 Lessee shall not permit the demised premises, or any part thereof, to be used for any purpose or purposes other than the club purposes.

6.2 Lessee shall not use the remainder, or any part thereof, for any purpose or purposes other than flyover purposes; provided however, Lessee may enter onto the remainder solely for the purpose of retrieval of downed aircraft.

6.3 Except as otherwise set forth in this lease, Lessee shall not have the right, power or permission to do any act or to make any agreement which may create, give rise to, or be the foundation for, any right, title, interest lien, charge or other encumbrance upon the estate of Lessor in the demised premises. Not in limitation of the foregoing, Lessee shall not permit any portion of the demised premises to be used by any person or persons or by the public, as such, at any time or times during the term of this lease, in such manner as might reasonably tend to impair Lessor's title to or interest in the demised premises or any portion thereof, or in such manner as might reasonably make possible a claim or claims of adverse use, adverse possession, prescription, dedication, or other similar claims of, in, to or with respect to the demised premises or any part thereof. Lessor may from time to time, but without affecting in any manner its rights or remedies in respect thereof should it elect or fail or refuse to so do, impose upon Lessee such rules or regulations as to the use or possession by any such persons or by the public as may reasonably be consistent with Lessor's protection against any such possible claim, all of which rules or regulations shall be fully and promptly performed and enforced by Tenant at Tenant's own cost and expense.

6.4 The parties agree that the demised premises and remainder (collectively sometimes referred to as "airfield") will also be open for use by the general public for the purpose of flying model aircraft, subject to the conditions and provisions herein contained; provided however, the parties understand that Lessee's use of the airfield, both intermittent and for scheduled events, shall encompass seven (7) days per week year-round from dawn to dusk. Notwithstanding the foregoing, the parties understand and agree that at such time as the land immediately West and adjoining the demised premises is developed with homes, should the noise levels of model the aircraft become a concern, Lessee agrees to adjust the hours of field use to reasonably address those concerns; in the absence of resolution on the part of the Lessee, Lessor and Lessee shall meet and work out appropriate hours of use.

6.5 Lessee shall have the authority (for purposes, including but not limited to, monitoring the orderly use of the airfield, maintenance and upkeep of the demised premises, and securing and maintaining public liability insurance through the Academy of Model Aeronautics) to make, post, and enforce rules and regulations for use of the airfield by members of the Lessee and the general public. To foster the continued use and enjoyment of the airfield by the general public and the Lessee, the rules and regulations may require for frequent and regular users of the airfield to share, by assessments, in Lessee's expenditures, including those related to the maintenance and upkeep of the demised premises. The rules and regulations shall not be inconsistent with Lessee's present rules and regulations (however, they may change from time to time consistent with new developments in the hobby), and shall adhere to the public purpose of the demised premises and the public purpose spirit of the legislative grant of the demised premises to the Lessor.

SECTION SEVEN
Lessor's Right of Entry

7.1 Lessee shall permit Lessor and the agents and employees of Lessor to enter into and upon the demised premises at any time Lessee for the purpose of inspecting the same, provided that a planned activity is not interrupted, except in the case of an emergency.

SECTION EIGHT
Improvements

8.1 Lessee may be allowed, contingent upon Lessor approval, to further construct on the demised premises during the course of the term hereof, other improvements necessary or desirable to carry on the club purposes, provided however, that Lessee shall be required to apply for the appropriate permit(s) and otherwise comply with all of the building, zoning and stormwater codes in effect at the time of construction.

8.2 Any improvement, or part thereof, constructed by Lessee on the demised premises, and all alterations, improvements, changes, or additions made in or to the demised premises shall be the property of the Lessee, and to the extent possible, Lessee may remove such improvements or parts thereof at any time or times, or may otherwise leave them on the demised premises at the termination of this lease in which case the same shall become the property of the Lessor.

8.3 Lessee shall, throughout the term hereof, at Lessee's sole cost and expense, keep and maintain the demised premises, including all improvements located thereon from time to time, in accordance with any and all applicable laws, guidelines and regulations.

8.4 Except as set forth above, no further material alterations of any kind shall be made without the prior written consent of the Lessor (which consent shall not be unreasonable delayed or denied) if such alterations would tend (i) to change the general

character or structure of the improvements on the demised premises, or (ii) to reduce or impair the value, rental, rental value, rentability or usefulness of the demised premises or any part thereof, provided, alteration of interior design not affecting structural components or the value or usefulness of the improvements shall not require Lessor's written consent.

8.5 Except as set forth above, no further material alterations shall be undertaken until Lessee shall have procured and paid for, so far as the same may be required from time to time, all generally required permits and authorizations of all municipal departments and governmental subdivisions having jurisdiction, and complied with all other legal requirements relating to the alterations.

8.6 Workmen's compensation insurance covering all persons employed in connection with the work and with respect to whom death or bodily injury claims would be asserted against Lessor, Lessee or the demised premises, and general liability insurance for the mutual benefit of the Lessor and Lessee with limits of not less than \$1,000,000.00 in the event of bodily injury or death to one person and not less than \$5,000,000.00 in the event of bodily injury or death to any number of persons in any one accident, and with limits of not less than \$1,000,000.00 damages or injury to property with not more than \$5,000.00 deductible, shall be maintained by Lessee at Lessee's sole cost and expense at all times when any substantial work is in progress in connection with any alterations. Lessee shall provide Lessor with current insurance policies on an annual basis. All such insurance, if readily obtainable, shall be affected under standard form policies issued by insurers of recognized responsibility, which are well rated by national rating organizations.

SECTION NINE
Subletting/Liens/Taxes

9.1 Lessee shall not sublet, assign, mortgage or otherwise transfer this lease or any interest therein, under a separate agreement without the previous written consent of Lessor, in its sole and absolute discretion, to any such sublet, assignment, mortgage or other transfer. Any such sublet, assign, mortgage or otherwise transfer without first obtaining the written consent of the Lessor shall not vest in the sublettee, assignee, mortgagee, or transferee any right, or interest, herein or hereunder or in the demised premises, and shall render this lease null and void at the election of Lessor. Lessee shall be allowed to invite other entities to temporarily schedule and conduct activities on the airfield.

9.2 Lessee will not directly or indirectly create or permit to be created, any lien, encumbrance or charge on, or pledge of, the demised premises or any part thereof, and Lessee shall cause the same to be discharged.

9.3 Although the parties agree the demised premises shall remain tax exempt for Lessee's use, all real property taxes and personal property taxes and/or assessments levied or

assessed against the demised premises, if not exempt, shall be paid by Lessee, commencing on the date Lessee takes possession of the demised premises. Lessee, upon demand shall deliver to Lessor copies of proper and sufficient receipt and other evidence of the payment and discharge of same. Lessor shall cooperate with Lessee in vigorously opposing the inclusion of the demised premises as non-exempt.

SECTION TEN
Insurance & Indemnification

10.1 Insurance:

(a) So long as this lease remains in effect, Lessee, at its expense, will maintain, or cause to be maintained with insurers approved by Lessor (which approval shall not be unreasonably withheld): (i) insurance with respect to the improvements against loss or damage by fire, lightning and other risks from time to time included under extended coverage endorsements, in amounts sufficient to prevent Lessor or Lessee from becoming a coinsurer of any partial loss under the applicable policies, but in any event in amounts equal to 100% of the full replacement value of the improvements (exclusive of the cost of foundations and excavations), less physical depreciation; (ii) comprehensive general liability in limits not less than \$1,000,000.00 per occurrence and \$3,000,000.00 in the aggregate. The insurance policies or certificates thereof shall be held by Lessee with copies provided to Lessor upon request. In the event that the improvements or any substantial portion thereof shall be destroyed or seriously damaged, the proceeds, when collected in cash by the Lessee, shall be held in trust and applied to the performance of the Lessee of all the covenants, agreements, terms and provisions of this lease until the repair, restoration or reconstruction of the improvements shall be completed as provided for in this lease. Further, the coverage limits of liability insurance shall be subject to review and alteration by the Lessor every two (2) years.

(b) All insurance required to be maintained pursuant to this lease (i) shall name Lessor and Lessee as insureds, as their respective interests may appear; and (ii) provide that no cancellation thereof shall be effective until at least thirty (30) days after receipt by Lessor and Lessee of written notice thereof. Any insurance required to be maintained by Lessee pursuant to this lease may be evidenced by blanket insurance policies covering the demised premises and other property or assets, provided that any such policies of the type referred to in this lease shall, in all respects, comply with the requirements of this lease. All insurance proceeds, if any, paid to the Lessee shall be held in trust by Lessee for application in the manner provided in this lease.

(c) Lessee will promptly deliver to Lessor copies of all insurance policies, or certificates thereof, with respect to the demised premises, which Lessee is required to maintain pursuant to this lease.

10.2 To the extent as allowable by law, Lessor shall not be liable for any loss, injury, death, or damage to persons or property at any time which may be suffered or sustained by Lessee or by any person whosoever who may at any time be using, occupying or visiting the

demised premises, or to off-site land where damage is inflicted, or be in, on, or about the same, where such loss, injury, death, or damage shall be caused by or in any way result from or arise out of any act, omission, or negligence of Lessee or of any occupant, subtenant, visitor, or user of any portion of the demised premises, and Lessee shall indemnify Lessor against all claims, liability, loss, or damage, including reasonable attorneys' fees, whatsoever with respect to the same.

SECTION ELEVEN
Notice of Default

11.1 Except as to the timely payment of rent, Lessee shall not be deemed to be in default of any of the provisions in this lease unless Lessor shall first give Lessee thirty (30) days written notice of such default and Lessee fails to cure such default with sixty (60) days after receipt of such written notice, or, if the default is of such nature that it cannot be cured within the sixty (60) day period, Lessee fails to commence to cure such default within such sixty (60) day period or fails thereafter to proceed to the curing of such default with all possible diligence.

SECTION TWELVE
Eminent Domain

12.1 In the event the entire demised premises shall be taken under the power of eminent domain by any public or quasi-public authority, this lease shall terminate and expire as of the date of such taking, and Lessee shall thereupon be released from any liability thereafter accruing hereunder.

12.2 In the event a portion of the demised premises shall be taken under the power of eminent domain by any public or quasi-public authority, and Lessee determines in its sole discretion that the remaining land of the demised premises shall no longer be suitable for club purposes, Lessee shall have the right to terminate this lease as of the date of such taking on upon giving Lessor written notice of such terminations within six (6) months after the date of such taking.

12.3 In the event the remainder (as previously defined), or any part thereof, shall be taken under the power of eminent domain by any public or quasi-public authority, and Lessee determines in its sole discretion that the demised premises shall no longer be suitable for club purposes as a result of such taking, Lessee shall have the right to terminate this lease as of the date of such taking on upon giving Lessor written notice of such terminations within six (6) months after the date of such taking.

12.4 In the event of total or partial taking of the demised premises and/or the remainder (as previously defined) by eminent domain, then in any condemnation proceedings

Lessor and Lessee shall each be free to make their respective claim(s) against the condemning or taking authority for damages done to them, respectively, as a result thereof.

12.5 In the event of partial taking of the demised premises and this lease is not terminated, the rent amount shall be reduced proportionately.

SECTION THIRTEEN

Waiver

13.1 The waiver by Lessor of, or the failure of Lessor to take action with respect to, any breach of any term, covenant or condition herein contained shall not be deemed to be a waiver of such term, covenant, or condition, or subsequent breach of the same, or any other terms, covenant or condition therein contained.

SECTION FOURTEEN

Termination

14.1 Notwithstanding anything in this lease to the contrary, upon cessation or termination of Lessee and/or its operations or abandonment of the demised premises by Lessee, this lease shall immediately terminate and Lessee shall be required, at its cost, to remove all Improvements, as provided for in Section 8 above, prior to termination.

14.2 Upon the expiration or termination of this lease, Lessee shall quit and surrender the demised premises to Lessor pursuant to Section 14.1 above.

SECTION FIFTEEN

Miscellaneous

15.1 In any action at law or in equity brought to enforce any of the covenants, terms or conditions of this lease, the substantially prevailing party shall be entitled to recover from the substantially non-prevailing party the costs, expenses and reasonable attorneys' fees of the prevailing party, all of which shall be made a part of any judgment or decree entered.

15.2 The covenants and conditions herein contained shall inure to the benefit of and be binding upon the respective successors, assigns, grantors and grantees of all the parties hereto, and shall run with the land.

15.3 The captions appearing under the section number designations are for convenience only and do not in any way limit or amplify the terms and provisions of this lease.

15.4 All notices, demands, or other writings necessary under this lease, shall be made in writing and deemed to have been given and served on the date of mailing the same by certified mail, return receipt requested, or on the date served by personal service, to the parties at the

following addresses, or by transmission, via email to the addresses below (or such other addresses as the parties may designate from time to time):

Lessor: City of St. Charles
2 E. Main Street
St. Charles, Illinois 60174
Attn: City Administrator
Email: hmcguire@stcharlesil.gov

Lessee: Fox Valley Aero Club

Attn: Club President
Email: _____

15.5 The parties shall execute a memorandum of this lease for recording purposes. A separate memorandum shall be executed by the parties with respect to the easement for recording purposes.

15.6 Multiple counterparts of this lease may be signed, all of which shall be deemed originals.

15.7 Simultaneous to the execution of this lease, the parties shall provide each other with certified copies of their respective corporate resolutions authorizing the execution of this lease by each respective party.

15.8 If any provision of this lease shall be prohibited or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remaining provisions of this lease.

15.9 Time is of the essence of this lease.

IN WITNESS WHEREOF, the parties have executed this lease on the day and year first above written.

Lessor:
City of St. Charles, an Illinois
Municipal Corporation

Lessee:
Fox Valley Aero Club, an Illinois
not-for-profit Corporation

By: _____
Mayor

By: _____
President

Attest: _____
City Clerk

Attest: _____
Secretary

Exhibit A
Club Purposes

Charter Purpose:

- (a) To create an interest in model airplane building, promote model airplane flying, sponsor model airplane contests, and to secure cooperative action in advancing common purposes of the member of the Club.

- (b) To do anything necessary and proper for the accomplishment of any purposes set forth in the statement of principles and rules and regulations adopted by the founders of this Club.

- (c) This Club is organized and operated exclusively for the above-stated purposes, and for other non-profit purposes, and no part of any net earning shall inure to the benefit of any private member.

Other Purposes or Activities Consistent with The Charter Purpose:

To engage in and carry on a general model aviation club, for purposes including but not limited to, flying model aircraft of every nature and description.

To promote and engage in nationally advertised and participated Academy of Model Aeronautics and International Miniature Aircraft Association sanctioned flying festivals, regional flying festivals and races, and any and all types of flying shows.

Storage of club equipment.

Providing of temporary mobile sanitary facilities.

To engage and solicit membership from and among the general public.

Such additional or other activities typically associated with clubs of this nature.

Exhibit H
Remainder (Easement) Purposes

To use the remainder airspace for flying model aircraft of every nature and description. To enter upon the remainder for purposes of recovering model aircraft.

Such other or incidental purposes necessary or desirable to facilitate the foregoing.