

CITY OF OGLESBY

ORDINANCE #1253-061724

**AN ORDINANCE APPROVING THE TERMS OF AND AUTHORIZING
THE EXECUTION OF A CONSTRUCTION AGREEMENT WITH
AMEREN ILLINOIS COMPANY AND THE ILLINOIS MUNICIPAL
ELECTRIC AGENCY FOR THE MALLICK ROAD SUBSTATION
DELIVERY POINT**

**ADOPTED BY THE CITY COUNCIL OF THE CITY OF OGLESBY
THIS 17TH DAY OF JUNE, 2024.**

Published in pamphlet form by authority of the City Council of the City of Oglesby,
LaSalle County, Illinois, this 18th day of June, 2024.

STATE OF ILLINOIS)
) SS
COUNTY OF LASALLE)

I, REBECCA CLINARD certify that I am the City Clerk of the City of Oglesby,
LaSalle County, Illinois.

I further certify that on the 17th day of June, 2024, the corporate authorities of the
above municipality passed and approved Ordinance #1253-061724, entitled "An
Ordinance Approving the Terms of and Authorizing the Execution of a Construction
Agreement with Ameren Illinois Company and the Illinois Municipal Electric Agency for
the Mallick Road Substation Delivery Point" which provided by its terms that it should be
published in pamphlet form.

The pamphlet form of Ordinance #1253-061724, including the Ordinance and
Coversheet thereof, was prepared and a copy of such Ordinance was posted in the
municipal building, commencing on the 18th day of June, 2024, and continuing for at least
ten days thereafter. Copies of the Ordinance were also available for public inspection
upon request in the office of the Municipal Clerk.

Dated in Oglesby, Illinois, this 18th day of June, 2024.

REBECCA CLINARD, City Clerk

(SEAL)

ORDINANCE #1253-061724

**AN ORDINANCE APPROVING THE TERMS OF AND AUTHORIZING
THE EXECUTION OF A CONSTRUCTION AGREEMENT WITH
AMEREN ILLINOIS COMPANY AND THE ILLINOIS MUNICIPAL
ELECTRIC AGENCY FOR THE MALLICK ROAD SUBSTATION
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WHEREAS, Ameren Illinois Company ("Ameren Illinois") owns electric facilities and is engaged in transmission and distribution of electric power and energy; and

WHEREAS, the City of Oglesby ("Oglesby" and Municipal Utility") is an Illinois municipality that owns and operates its own municipal electric utility and distribution system and that provides retail electric service to the citizens and business in its service area; the service area of the Municipal Utility is surrounded by the Ameren Illinois transmission footprint and its distribution system is and has historically been directly connected to the transmission and distribution systems of Ameren Illinois; Municipal Utility is a Bundled Load, as that term is defined in the Open Access Transmission Tariff, Energy and Operating Reserve Markets Tariff ("**Tariff**") of Midcontinent Independent System Operator ("MISO"), that currently purchases its full electricity requirements, including but not limited to wholesale power supply and delivery service, as a single service from IMEA; and

WHEREAS, the Illinois Municipal Electric Agency ("IMEA") is a body politic and corporate, a municipal corporation and a unit of local government, which municipal power agency, established under the Illinois Joint Municipal Electric Power Act, serves the full electric requirements of 32 of the State of Illinois' municipal electric utilities; IMEA provides a fully bundled and delivered wholesale service to its member municipalities,

including Municipal Utility, and as such IMEA has assumed the Load Serving Entity (as that term is defined in the MISO Tariff) obligations that would otherwise be imposed on Municipal Utility under the MISO Tariff; IMEA is the customer of Ameren Illinois and MISO for transmission, wholesale distribution and other related services with respect to the electricity delivered to its member municipalities within the Local Balancing Authority of Ameren Illinois, including to Municipal Utility's distribution system for use by end users served by Municipal Utility; and

WHEREAS, IMEA's operations center is and has been the initial and primary point of contact for communications from Ameren Illinois and MISO regarding transmission and distribution services involved in the delivery of electric power and energy to its member municipalities, including Municipal Utility; IMEA's engineering department is and has been the initial and primary point of contact for Ameren Illinois on matters involving the delivery points of its member municipalities, including Municipal Utility, at the points of connection between the individual member municipal utility systems and the transmission and distribution systems of Ameren Illinois; and IMEA is and will continue to be the initial and primary contact for Ameren Illinois for many of the duties of Municipal Utility hereunder; and

WHEREAS, Municipal Utility has requested that Ameren Illinois construct certain modifications briefly described as the addition of a second 34.5 kV Delivery Point for the City of Oglesby by tapping Ameren Illinois' line 3357 near the Oglesby's Mallick Road Substation; and

WHEREAS, Ameren Illinois has agreed to this project with the following stipulations:

1. That the new Mallick Rd. Delivery Point will be normally open and operated as an as available backup service point shall be defined in Appendix B of Wholesale Connection Agreement between Ameren Services Company, as designated agent for Ameren Illinois, Municipal Utility, and IMEA; and.
2. That all of the Municipal Utility's load will be normally fed from the existing Delivery Point from Ameren Illinois' Line 3436 out of the Ameren Oglesby bulk substation; and

WHEREAS, Municipal Utility, IMEA, and Ameren Illinois have agreed to enter into an Agreement for the purpose of facilitating construction of the Modifications,

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF OGLESBY, LASALLE COUNTY, ILLINOIS, AS FOLLOWS:

Section 1. The findings and determinations set forth in the preamble to this Ordinance are hereby made findings and determinations of the City Council of the City of Oglesby and are incorporated into the body of this Ordinance as if set forth in full.

Section 2. The City Council of the City of Oglesby hereby accepts and approves the Mallick Road substation Delivery Point project as more fully described in the Construction Agreement to be executed with Ameren Illinois and IMEA; and.

Section 3. By this Ordinance, the Mayor of the City of Oglesby is hereby authorized and directed to execute and deliver and the City Clerk is hereby authorized and directed to attest and seal the Construction Agreement, substantially in the form of Exhibit A, which is attached hereto and incorporated herein by reference.

Section 4. By this Ordinance, the Mayor of the City of Oglesby or his designee is hereby further authorized to take all steps and execute any and all other documents and agreements reasonably necessary or appropriate to implement and administer the

Mallick Road substation delivery project, including but not limited to the negotiation, finalization and execution of said Construction Agreement.

Section 5. This Ordinance shall be in full force and effect after its passage, approval, and publication in pamphlet form as provided by law.

Section 6. The City Clerk is hereby instructed to publish this Ordinance in pamphlet form as required by law.

PRESENTED, PASSED AND ADOPTED at a regular meeting of the City Council of the City of Oglesby, LaSalle County, Illinois, on this 17th day of June, 2024, by an aye and nay roll call vote as follows:

GREGORY MCDERMOTT	___ AYE; ___ NAY; ___ ABSENT; ___ PASS
ANTONIO STEFANELLI	___ AYE; ___ NAY; ___ ABSENT; ___ PASS
RICHARD BALDRIDGE	___ AYE; ___ NAY; ___ ABSENT; ___ PASS
JASON CURRAN	___ AYE; ___ NAY; ___ ABSENT; ___ PASS

JASON CURRAN, Mayor

ATTEST:

REBECCA CLINARD, City Clerk

EXHIBIT A

CONNECTION CONSTRUCTION AGREEMENT Ameren – IMEA/Oglesby: Mallick Rd. Delivery Point Project

This Construction Agreement (“Agreement”) is entered into as of _____, by and between **Ameren Illinois Company d/b/a Ameren Illinois**, a corporation organized and existing under the laws of the State of Illinois (“Ameren Illinois”), the **City of Oglesby**, an Illinois municipality, (“Oglesby” and “Municipal Utility”), **Illinois Municipal Electric Agency**, a body politic and corporate, municipal corporation and unit of local government of the State of Illinois (“IMEA”). Municipal Utility, IMEA, and Ameren Illinois may be referred to herein individually as a “Party” and collectively as the “Parties.”

RECITALS

WHEREAS, Ameren Illinois owns electric facilities and is engaged in transmission and distribution of electric power and energy; and

Oglesby is an Illinois municipality that owns and operates its own municipal electric utility and distribution system and that provides retail electric service to the citizens and business in its service area; the service area of Municipal Utility is surrounded by the Ameren Illinois transmission footprint and its distribution system is and has historically been directly connected to the transmission and distribution systems of Ameren Illinois; Municipal Utility is a Bundled Load, as that term is defined in the Open Access Transmission Tariff, Energy and Operating Reserve Markets Tariff (“**Tariff**”) of Midcontinent Independent System Operator (“MISO”), that currently purchases its full electricity requirements, including but not limited to wholesale power supply and delivery service, as a single service from IMEA; and

IMEA is a municipal power agency, established under the Illinois Joint Municipal Electric Power Act, that serves the full electric requirements of 32 of the State of Illinois’ municipal electric utilities; IMEA provides a fully bundled and delivered wholesale service to its member municipalities, including Municipal Utility, and as such IMEA has assumed the Load Serving Entity (as that term is defined in the MISO Tariff) obligations that would otherwise be imposed on Municipal Utility under the MISO Tariff; IMEA is the customer of Ameren Illinois and MISO for transmission, wholesale distribution and other related services with respect to the electricity delivered to its member municipalities within the Local Balancing Authority of Ameren Illinois, including to Municipal Utility’s distribution system for use by end users served by Municipal Utility;

IMEA’s operations center is and has been the initial and primary point of contact for communications from Ameren and MISO regarding transmission and distribution services involved in the delivery of electric power and energy to its member municipalities, including Municipal Utility; IMEA’s engineering department is and has been the initial and primary point of contact for Ameren on matters involving the delivery points of its member municipalities, including Municipal Utility, at the points of connection between the individual member municipal utility systems and the transmission and distribution systems of Ameren Illinois; and IMEA is and will continue to be the initial and primary contact for Ameren for many of the duties of Municipal Utility hereunder; and

WHEREAS, Municipal Utility has requested that Ameren Illinois construct certain Modifications briefly described as:

Municipal Utility requested the addition of a second 34.5 kV Delivery Point for the City of Oglesby by tapping Ameren Illinois' line 3357 near the Oglesby's Mallick Rd Substation; and

Ameren Illinois has agreed to this project with the following stipulations:

1. The new Mallick Rd. Delivery Point will be normally open and operated as an as available backup service point shall be defined in Appendix B of Wholesale Connection Agreement between Ameren Services Company, as designated agent for Ameren Illinois, Municipal Utility, and IMEA.
2. All of the Municipal Utility's load will be normally fed from the existing Delivery Point from Ameren Illinois' Line 3436 out of the Ameren Oglesby bulk substation.

WHEREAS, Municipal Utility, IMEA, and Ameren Illinois have agreed to enter into this Agreement for the purpose of facilitating construction of the Modifications.

NOW, THEREFORE, in consideration of and subject to the mutual covenants contained herein, it is agreed:

ARTICLE 1 DEFINITIONS

Wherever used in this Agreement with initial capitalization, the following terms shall have the meanings specified or referred to in this Article 1.

- 1.1 **“Delivery Point(s)”** shall mean the point or points at which the ownership of the Ameren Illinois Wholesale Distribution System ends and the ownership of the Municipal Utility’s system begins, and at which point or points IMEA delivers power to Municipal Utility.
- 1.2 **“FERC”** shall mean the Federal Energy Regulatory Commission or its successor.
- 1.3 **“Force Majeure”** shall mean any act of God, labor disturbance, act of the public enemy, war, insurrection, riot, fire, storm or flood, explosion, epidemic, pandemic¹, breakage or accident to machinery or equipment, an order, regulation, or restriction imposed by governmental, military or lawfully established civilian authorities, or any other cause beyond a Party’s reasonable control. A Force Majeure event does not include an act of negligence or intentional wrongdoing by the Party claiming Force Majeure.
- 1.4 **“Good Utility Practice”** shall mean any of the applicable practices, methods and acts engaged in or approved by a significant portion of the electric industry during the relevant time period, or any of the practices, methods and acts which, in the exercise of reasonable judgment by a Party in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result in a good faith, nondiscriminatory

¹ This definition shall exclude the 2020 to 2022 Covid-19 pandemic.

manner and at a reasonable cost consistent with good business practices, reliability, safety and expedition, giving due regard to the requirements of governmental agencies having jurisdiction. Good Utility Practice is not intended to be limited to the optimum practice, method, or act to the exclusion of all others, but rather includes all acceptable practices, methods, or acts generally accepted in the region as they may be applicable to the Parties as system operators.

- 1.5 **“Governmental/Regulatory Authority”** shall mean any federal, state, local, or other governmental agency, court, commission, department, board, or other governmental subdivision, legislature, rulemaking board, tribunal, arbitrating body, or other governmental authority having jurisdiction over a Party; provided, however, that Municipal Utility shall not be considered a Governmental Authority for purposes of this Agreement except when Oglesby is exercising its governmental or police powers as opposed to its proprietary electric utility functions.
- 1.6 **“MISO”** shall mean the Midcontinent Independent System Operator, Inc., or any successor entity(ies) that is responsible for functional control of the operation of part or all of the Ameren Illinois transmission facilities, or any successor entity(ies).
- 1.7 **“Municipal Utility”** has the meaning given to it in the preamble of this Agreement.
- 1.8 **“Municipal Utility-Built Facilities”** shall mean those facilities associated with Modifications to be constructed and owned by Municipal Utility, on Municipal Utility’s side of the interconnection between Ameren Illinois’ Wholesale Distribution System and Municipal Utility's distribution system.
- 1.9 **“NERC”** shall mean the North American Electric Reliability Corporation or its successor.
- 1.10 **“Reasonable Efforts”** shall mean, with respect to an action required to be attempted or taken by a Party under this Agreement, efforts that are timely and consistent with Good Utility Practice and are otherwise substantially equivalent to those a Party would use to protect its own interests.
- 1.11 **“Regulatory Requirements”** shall mean any FERC policies including NERC reliability standards or any applicable regional reliability standards or requirements and the MISO or Governmental/Regulatory Authority having jurisdiction over the Parties with regard to the subject matter of this Agreement, or any successor to any of these.
- 1.12 **“WDS”** shall mean Wholesale Distribution Service provided by Ameren Illinois to IMEA with respect to the Municipal Utility load pursuant to the WDS Agreement.
- 1.13 **“WDS Agreement”** shall mean the agreement for provision of Wholesale Distribution Service between Ameren Illinois and IMEA on file with FERC and in effect.
- 1.14 **“Wholesale Distribution System”** shall mean the electrical system owned and operated by Ameren Illinois to deliver power to customers, which facilities are sized and configured at voltage levels appropriately classified and recorded in the plant records of Ameren Illinois

as distribution plant (generally 12 kV, 34.5 kV, 69 kV or radial 138 kV) and used in the provision of Wholesale Distribution Service.

ARTICLE 2 TERM OF AGREEMENT AND REGULATORY APPROVAL

- 2.1 Effective Date.** Subject to required regulatory authorizations, including, without limitation, acceptance by the Federal Energy Regulatory Commission (“FERC”) under Section 205 of the Federal Power Act, this Agreement shall be effective as of the date of execution of this Agreement, or such other date as it is permitted to become effective by the FERC (“Effective Date”).
- 2.2 Term and Termination.** This Agreement shall continue in full force and effect until the date upon which the Modifications have been completed and each Party has complied with all provisions of this Agreement and all laws and regulations applicable to it. The Parties may terminate this Agreement in advance of that date only by mutual consent or pursuant to Article 8, subject to the FERC authorization referenced in Section 2.3.
- 2.3 Regulatory Filings.** Ameren Illinois shall tender this Agreement to FERC for filing. Municipal Utility and IMEA shall reasonably cooperate with Ameren Illinois with respect to such filing and shall provide any information, including the filing of testimony, reasonably requested by the FERC to comply with applicable Regulatory Requirements. No termination, or any partial termination hereunder, shall become effective until the terminating Party (or the Parties jointly) tender(s) to FERC any amendment or any other required notification of termination of this Agreement and obtains such acceptance thereof by FERC as may be necessary to comply with applicable Regulatory Requirements.
- 2.4 No Admissions or Precedent.** This Agreement, and the Parties’ performance of their obligations hereunder, are the result of compromise and neither the Agreement nor the Parties’ performance hereunder shall be deemed to be an admission of any fact or of any responsibility as it relates to any other distribution facilities’ connection project. This Agreement shall be binding on the Parties only with respect to the project that is the subject matter hereof, and shall not bind the Parties to apply the principles or provisions of this Agreement to any other agreement, arrangement, or proceeding. The Agreement establishes no principles and no precedent with respect to any issue concerning future projects or in any proceeding brought in connection with future projects.

ARTICLE 3 PURPOSE AND SCOPE

- 3.1 Purpose.** The purpose of this Agreement is to set forth the terms and conditions for the construction of and financial obligations associated with certain Modifications to the Ameren Illinois Wholesale Distribution System required for the additional facilities to connect the Municipal Utility owned as available, normally open Mallick Road Delivery Point “Mallick Rd” to the Ameren Illinois Wholesale Distribution System.

- 3.2 Transmission Arrangements.** Transmission service does not fall within the scope of this Agreement. Each Party shall be responsible for making any and all arrangements for transmission service with the MISO under the Tariff.
- 3.3 Wholesale Distribution Service.** The provision of WDS shall be governed by Schedule 11 of the Midwest ISO Tariff and the WDS Agreement in effect between Ameren Illinois and IMEA, as it may be amended from time to time.
- 3.4 Costs of Connection Facilities.** In the event that Municipal Utility makes one or more lump sum payments to Ameren Illinois in connection with Dedicated Tap-Related Facilities under this Agreement, such payment shall be considered a Contribution in Aid of Construction (“CIAC”), and Ameren Illinois and its affiliates shall not charge Municipal Utility or IMEA for the facilities or include the costs of such facilities in any assessment of any charge against Municipal Utility or IMEA through any other charge under any other tariff, policy or agreement. Furthermore, the Distribution Connection Facilities described in Exhibit A shall be considered part of the Ameren Illinois Wholesale Distribution System and Ameren Illinois and its affiliates shall charge Municipal Utility or IMEA for such facilities only as provided for in Article 5 of this Agreement.

ARTICLE 4 CONSTRUCTION, SCOPE OF WORK AND SECURITY

- 4.1 Modifications.** Ameren Illinois shall install, own, operate, and maintain the following facilities identified below:

4.1.1 Dedicated Tap-Related Facilities:

Addition of a second 34.5 kV Delivery Point for the Municipal Utility by tapping Ameren Illinois' line 3357 near the Municipal Utility's Mallick Rd Substation. Ameren Illinois will install one three-phase, gang-operated disconnect switch # 1904 with load break capability in the main line on the north side of the tap point that will allow feed from line 3357 from either the Ameren Illinois Oglesby or LaSalle substations for an outage of Line 3436. A second main line switch on the Municipal Utility side of the tap is not suggested due to the close proximity to the Ameren Illinois Oglesby substation. Ameren Illinois will install one remotely controllable, fault interrupting, and load breaking device #46820 to serve as the main disconnect for this service.

Ameren Illinois agrees to exercise Reasonable Efforts to design, engineer, construct, install and place in service the above-described modifications.

4.1.2 Distribution Connection Facilities:

(Not applicable for this project)

4.1.3 Metering Equipment:

Ameren Illinois shall provide, own, install, and maintain a new Metering Structure, 34.5 kV primary PTs and CTs for a 3-wire system, Meter Cabinet, a revenue accurate meter, which shall be a Shark270 (will include KYZ pulse equipment), metering test switch, remote communications for Ameren Illinois use, and secondary cables from its Meter Structure to the Meter Cabinet. Ameren Illinois shall make available to IMEA a connection to the Ameren Illinois meter for obtaining instantaneous data. Ameren Illinois shall install the meter, perform final wiring connections, and verify proper meter installation. All Metering Equipment will be sealed with Ameren Illinois' seals, and only Ameren Illinois - authorized personnel will have access to the Metering Equipment. The meter readings will be incorporated into Ameren Illinois' MV90 system. Ameren Illinois AMI or similar system will be used to remotely interrogate the meter.

4.1.4 Easements: All easements required for the installation, operation, and maintenance of the Modifications shall be secured by Ameren Illinois for Ameren Illinois' use.

- 4.2 Inspection and Testing.** Upon the completion of the installation of the Municipal Utility Built Facilities under this Agreement, Ameren Illinois shall have the right to witness the inspection and testing of all such Municipal Utility Built Facilities. Municipal Utility shall provide reasonable notice to Ameren Illinois prior to such testing so that Ameren Illinois may have representatives present for the tests. Municipal Utility shall provide to Ameren Illinois written certified copies of the test results for Ameren Illinois' records, as applicable.
- 4.3 Delivery Point.** The Mallick Rd. Delivery Point is located at the point of change in ownership of facilities, where Ameren Illinois' meter structure is depicted in the Attachment A-2.
- 4.4 Scheduled Outage.** Municipal Utility and Ameren Illinois shall jointly determine an acceptable time period for the outage to complete the work in accordance with Good Utility Practice.
- 4.5 Coordination of Design Details.** Municipal Utility and Ameren Illinois shall coordinate the design details for all associated connection facilities, including but not limited to associated structures, line loads, physical layout and structure locations, and any other facilities that the Parties determine to be appropriate. All such design details are subject to the approval of Ameren Illinois.
- 4.6 Jurisdictional and Functional Authority.** Ameren Illinois will maintain exclusive jurisdictional and functional authority over the main line switch # 1904, the remotely controlled reclosure, its 34.5 kV line and other facilities on its system. Ameren Illinois will have jurisdictional authority over Municipal Utility's R-X isolating disconnect switch. Ameren Illinois and Municipal Utility will honor any hold tags or other clearances given to the isolating disconnection tap switch. Municipal Utility shall have functional authority over its R-X disconnecting switch. Municipal Utility will maintain Jurisdictional and Functional Authority over its 34.5 kV line and other facilities on its

system. Jurisdictional Authority shall mean the Party with the sole authority to direct and coordinate operation of the system equipment. Functional Authority shall mean the Party that specifically performs or directs someone else to perform detailed switching operations, provided such Party has secured the necessary authorization from the Party with the Jurisdictional Authority.

**ARTICLE 5
COSTS AND PAYMENTS**

5.1 Costs.

5.1.1 Estimate.

<u>Dedicated Tap Related Connection Facilities</u> Installed Cost (including Meter Structure)	\$ 221,000.00
Gross Up for Tax Impact (16.85%)	\$ 37,238.50
Total Cost Estimate	\$ 258,238.50
 Total Cost Estimate for Delivery Point Facilities	 \$ 258,239.00

5.1.2 Payment Arrangement.

Municipal Utility shall make a lump sum payment to Ameren Illinois of \$258,239.00 as based on the estimated above, prior to construction.

The costs shown above are estimated values. Final values will be based on the actual cost reasonably incurred of installation of the Dedicated Tap Related Connection Facilities or Distribution Connection Facilities, as applicable, with such actual costs to be itemized on Ameren Illinois' invoice to Municipal Utility. The Gross-up Rate for Tax Impact shown above is the rate in effect at the time of execution of this Agreement. The rate in effect at the time these facilities are placed in service is the rate that will apply for the final installed costs. Notwithstanding any other provision in this Agreement to the contrary, the Monthly Metering Charge as described in the WDS Agreement between IMEA and Ameren Illinois will be invoiced through IMEA's monthly Network Integration Transmission Service ("NITS") Invoice.

5.1.3 Municipal Utility's Built Facilities. Municipal Utility shall design, procure, install, own, control, operate, maintain, and pay for all facilities on its side of the new Mallick Rd. Delivery Point.

5.1.4 Overall Cost Responsibility. Municipal Utility and Ameren Illinois hereby acknowledge and agree that the costs listed in Section 5.1 above are only a non-binding estimate of Ameren Illinois total costs. Municipal Utility agrees to pay Ameren Illinois for modifications made by Ameren Illinois as specified in the Agreement, including but

not limited to Article 5. As between IMEA and Oglesby, such costs, except metering charges, shall ultimately be borne by Oglesby.

5.2 Maintenance.

Ongoing costs of maintenance of the Dedicated Tap-Related Connection Facilities shall be billed to Municipal Utility as reasonably incurred by Ameren Illinois. If in the future such facilities require replacement, Municipal Utility shall be responsible to Ameren Illinois for any reasonable replacement costs. Also, if in the future Municipal Utility requests that the Mallick Rd. Delivery Point Facilities be removed, Municipal Utility will be responsible to Ameren Illinois for Ameren Illinois actual costs reasonably incurred for such removal. Upon receipt by Ameren Illinois of payment by Municipal Utility for removal of Mallick Rd. Delivery Point Facilities, Municipal Utility shall have no further obligation as to the cost associated with such facilities.

5.3 Metering Charges. Charges for metering associated with the Mallick Rd. Delivery Point shall be in accordance with the metering terms of the currently effective WDS Agreement between Ameren Illinois and IMEA, or of any successor agreement, and shall be billed monthly pursuant to this Agreement or through an amendment to the WDS Agreement as prescribed above.

**ARTICLE 6
FORCE MAJEURE**

6.1 Except for obligations to make any payments under this Agreement and to comply with the provisions of Article 5, the Parties shall be excused from performing their respective obligations under this Agreement and shall not be liable in damages or otherwise if and to the extent that they are unable to so perform or are prevented from performing by a Force Majeure, provided that:

- (a) the non-performing Party, as promptly as practicable after the Party reasonably determines that a Force Majeure event has occurred and such Force Majeure event will adversely impact the Party's ability to perform its obligations hereunder, gives the other Party written notice describing the particulars of the occurrence, including a reasonable estimation of the Force Majeure's expected duration and the probable impact on the performance of the non-performing Party's obligations hereunder;
- (b) the suspension of performance is of no greater scope and of no longer duration than is reasonably required by the Force Majeure;
- (c) the non-performing Party uses all Reasonable Efforts to remedy its inability to perform; and
- (d) as soon as the non-performing Party is able to resume performance of its obligations excused as a result of the occurrence, it gives prompt written notification thereof to the other Party.

**ARTICLE 7
LIABILITY AND INDEMNIFICATION**

- 7.1 LIMITATION ON DAMAGES.** UNDER NO CIRCUMSTANCE SHALL EITHER PARTY OR THEIR RESPECTIVE AFFILIATES, DIRECTORS, OFFICERS, EMPLOYEES AND AGENTS, OR ANY OF THEM, BE LIABLE TO THE OTHER PARTY, WHETHER IN TORT, CONTRACT OR OTHERWISE FOR ANY SPECIAL, INDIRECT, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES, INCLUDING LOST PROFITS, EXCEPT TO THE EXTENT THE PARTY AND/OR ITS RESPECTIVE AFFILIATES, DIRECTORS, OFFICERS, EMPLOYEES OR AGENTS IS LIABLE TO A THIRD PARTY FOR SUCH DAMAGES. THE PARTIES' LIABILITY HEREUNDER SHALL BE LIMITED TO DIRECT ACTUAL DAMAGES (INCLUDING DAMAGES DESCRIBED IN THE PRECEDING SENTENCE FOR WHICH A PARTY IS LIABLE TO A THIRD PARTY), AND ALL OTHER DAMAGES ARE EXCLUDED WITHOUT REGARD TO THE CAUSE OR CAUSES RELATED THERETO, INCLUDING THE NEGLIGENCE OF ANY PARTY, WHETHER SUCH NEGLIGENCE BE SOLE, JOINT OR CONCURRENT, OR ACTIVE OR PASSIVE. THE PROVISIONS OF THIS SECTION SHALL SURVIVE THE TERMINATION OR EXPIRATION OF THIS AGREEMENT.
- 7.2 Indemnification.** The Parties shall indemnify, defend and hold harmless each other (and their respective directors, members, officers, employees, and agents) for any Third-Party Claims arising from the indemnifying Party's negligence or willful misconduct, or the negligence or willful misconduct of the indemnifying Party's employees, agents, suppliers, affiliates, contractors or subcontractors in connection with the performance of this Agreement. "Third Party Claims" means all claims, demands, losses, costs, expenses, damages (including, without limitation, direct, indirect, incidental, consequential, special, exemplary, and punitive damages), judgments, actions, payments made in settlement, arbitration awards, and liabilities, including reasonable attorney's fees, arising out of death, bodily injury or property damage brought by any individual, entity, partnership, association, or Governmental Authority which is not a Party to the Agreement (each a "Third Party").
- 7.3 Survival.** The limitation of liability provided for, and the indemnification obligations of each Party under this Article, shall continue in full force and effect regardless of whether this Agreement has either expired or been terminated or canceled with respect to matters that arise during the effectiveness of the Agreement.

**ARTICLE 8
BREACH, CURE AND DEFAULT, AND DISPOSITION OF FACILITIES UPON
TERMINATION**

- 8.1 Breach.** A breach of this Agreement shall occur upon the failure by a Party or its affiliates, successors or assigns to perform any material term or condition of this Agreement.
- 8.2 Events of Breach.** A breach of this Agreement shall include:

- (a) The failure to comply with any material term or condition of this Agreement, including but not limited to any material breach of a representation, warranty or covenant made in this Agreement;
- (b) If a Party or its affiliates, successors or assigns: (i) by decree of a court of competent jurisdiction, is adjudicated bankrupt or insolvent; (ii) files a voluntary petition in bankruptcy under any provision of any federal or state bankruptcy law, or consents to the filing of any bankruptcy or reorganization petition against it under any similar law which is not dismissed within thirty (30) days; (iii) makes a general assignment for the benefit of its creditors; or (iv) consents to the appointment of a receiver, trustee or liquidator;
- (c) Assignment of this Agreement in a manner inconsistent with the terms of this Agreement;
- (d) Failure of any Party or its affiliates, successors or assigns to provide such access rights, or a Party's attempt to revoke or terminate such access rights, as provided under this Agreement; or
- (e) Failure of any Party or its affiliates, successors or assigns to provide information or data to another Party as required under this Agreement, provided that the Party entitled to the information or data under this Agreement requires such information or data to satisfy its obligations under this Agreement or to satisfy Regulatory Requirements.

8.3 Cure and Default.

- (a) A Party automatically will be deemed to be in "Default" of this Agreement upon the occurrence of any one of the events described in Sections 8.2(b)(i)-(iv) of the Agreement.
- (b) Upon the occurrence of any event of breach other than those described in Section 8.2(b)(i)-(iv), any Party not in breach (hereinafter a "Non-Breaching Party"), when it becomes aware of any such breach, shall give written notice of the breach to the Breaching Party. Such notice shall set forth, in reasonable detail, the nature of the breach, and where known and applicable, the steps necessary to cure such breach. Upon receiving written notice of the breach hereunder, the Breaching Party shall have thirty (30) days to cure such breach. If the breach is such that it cannot be cured within such thirty-day (30-day) time period, the Breaching Party will commence in good faith all steps as are reasonable and appropriate to cure the breach within such thirty-day (30-day) time period and thereafter diligently pursue such action to completion. In the event the Breaching Party fails to cure the breach, or to commence reasonable and appropriate steps to cure the breach, within such thirty-day (30-day) time period, the Breaching Party will be in "Default" of the Agreement.

- (c) Upon the occurrence of a Default, any Non-Breaching Party may, subject to the limitations contained in this Article 8, and subject to the FERC authorization referenced in Section 2.3, terminate this Agreement as to the Breaching Party by providing written notice of termination to the Breaching Party; provided that where a Default has been disputed by the Breaching Party, termination of this Agreement on account of such Default may not occur absent a final, binding and non-appealable decision by FERC, an arbitrator, or a court of competent authority having jurisdiction, making a determination of said Default.

8.4 Disposition of Facilities upon Termination.

- (a) Upon termination of this Agreement at the request of Municipal Utility or through default by Municipal Utility, unless otherwise agreed by the Parties in writing, Ameren Illinois shall:
 - (ii) prior to the construction and installation of any portion of Ameren Illinois' Built Facilities, to the extent possible, cancel any pending orders of, or return, such Facilities to the extent that such orders or Facilities are not required by Ameren Illinois for other purposes;
 - (ii) unless otherwise determined by Ameren Illinois to cause a safety issue, keep in place any portion of Ameren Illinois' Built Facilities already constructed and installed; and
 - (iii) perform such work as may be necessary to ensure the safety of persons and property and to preserve the integrity of Ameren Illinois' transmission and distribution systems (e.g., construction demobilization, wind-up work).
- (b) Upon termination of this Agreement and submission of an itemized bill by Ameren Illinois, Municipal Utility shall reimburse Ameren Illinois within 30 days from the date of an Ameren Illinois invoice in a single lump sum payment, for any costs reasonably incurred by Ameren Illinois in performance of the actions required or permitted by Section 8.4(a) and for any costs reasonably incurred by Ameren Illinois prior to the time of termination, including design, drafting, and engineering, for any portion of Ameren Illinois' Built Facilities described in Article 4.
- (c) Upon termination of this Agreement and prior to the construction and installation of any portion of the Ameren Illinois' Built Facilities, Ameren Illinois may, at its option, retain any portion of such materials not cancelled or returned in accordance with Section 8.4(a), in which case Ameren Illinois shall be responsible for all costs associated with procuring such materials. To the extent that Municipal Utility has already paid Ameren Illinois for any or all of such costs, Ameren Illinois shall refund such amounts, without interest, to Municipal Utility. If Ameren Illinois elects to not retain any portion of such materials that it was not able to cancel or return, Ameren Illinois shall convey and make available

to Municipal Utility such materials as soon as practicable after Municipal Utility has made full payment for such materials.

- (d) Notwithstanding anything to the contrary, if this Agreement is terminated by Ameren Illinois for any reason not attributed to default by Municipal Utility or as mutually agreed to in writing between Ameren Illinois and Municipal Utility, Municipal Utility shall not be liable for any costs incurred by Ameren Illinois in relation to or arising from this Agreement.

ARTICLE 9 DISPUTES

- 9.1 Submission.** Any claim or dispute, which either Party may have against the other, arising out of this Agreement, shall be submitted in writing to the other Party not later than the latter of sixty (60) days after the circumstances which gave rise to the claim or dispute have taken place or within sixty (60) days of discovery of such circumstances. The submission of any claim or dispute shall include a concise statement of the question or issue in dispute, together with relevant facts and documentation to fully support the claim.
- 9.2 Alternative Dispute Resolution.** If any such claim or dispute arises, the Parties shall use their best efforts to resolve the claim or dispute through good faith negotiation. Upon the failure of such negotiations, the parties may resolve the claim or dispute through mutually agreed to Alternative Dispute Resolution (“ADR”) techniques, which may, if both Parties consent, include arbitration before one neutral arbitrator conducted in accordance with the rules of the American Arbitration Association’s Commercial Arbitration Rules. All negotiations pursuant to these procedures for the resolution of Disputes will be confidential, and shall be treated as compromise and settlement negotiations for purposes of the Federal Rules of Evidence and State Rules of Evidence.
- 9.3 Termination of ADR.** Notwithstanding the provisions of Section 9.2, either Party may bypass ADR altogether or terminate its participation in ADR during any stage of ADR prior to the entry of judgment upon the decision of an arbitrator and proceed to submit such claim or dispute for decision by a court or regulatory authority of competent jurisdiction.

ARTICLE 10 NOTICES

- 10.1** Any notice, authorization, invoice, or consent required or permitted under this Agreement will be deemed properly given if: provided in writing and (1) delivered in person; (2) delivered by United States Postal Service certified or registered mail; (3) delivered to a nationally recognized overnight courier service and properly addressed with the delivery

charges prepaid; or (4) sent by electronic communication or facsimile, with conformation of successful transmission, to the intended recipient as follows:

To Ameren Illinois:

Regulatory Consultant
Ameren Illinois
200 West Washington Street
Springfield, IL 62701

With a copy to:

General Counsel
Ameren Services Company
1901 Chouteau Avenue
MC 1300
St. Louis, MO 63166

To Municipal Utility:

City Clerk
City Of Oglesby
110 E Walnut Street
Oglesby, IL 61348

To IMEA:

Mr. Kevin Gaden
President & CEO
Illinois Municipal Electric Agency
3400 Conifer Drive
Springfield, IL 62711

Any such notice or communication shall be deemed to have been given as of the date received. A Party may change its notice information by giving the other Parties notice in accordance with this Article.

**ARTICLE 11
MISCELLANEOUS**

- 11.1 Governing Law.** This Agreement will be interpreted, construed and enforced in all respects in accordance with the laws of the State of Illinois, without reference to its rules relating to choice of law, except to the extent preempted by the laws of the United States of America.
- 11.2 Relationship of Parties; No Third-Party Beneficiaries.** Nothing contained in this Agreement will be construed to create an association, joint venture, trust, or partnership,

or impose a trust or partnership covenant, obligation, or liability on or with regard to any of the Parties. Each Party will be individually responsible for its own covenants, obligations, and liabilities under this Agreement. Nothing in this Agreement will be construed to create a duty to, any standard of care with reference to, or any liability or inference of liability to a third party.

- 11.3 No Conflicting Agreement or Obligations.** Each Party represents and warrants that the execution of this Agreement, and the performance of its obligations under it, have been duly authorized and do not conflict with any other agreements or binding obligations applicable to it.
- 11.4 Assignment.** This Agreement will inure to the benefit of, and be binding upon, the Parties and their respective successors and assignees. Any Party may assign, transfer, or subcontract all or any part of its rights and obligations under this Agreement, provided that the Party whose rights and obligations have been assigned, transferred, or subcontracted will continue to have the primary responsibility for all of its obligations set forth in this Agreement unless relieved of its obligations by written consent of the other Party; and provided further that any person or business entity that takes ownership or control of all or substantially all of Municipal Utility's assets shall be required to take assignment of Municipal Utility's rights and obligations under this Agreement.
- 11.5 Recitals, Headings and Subtitles.** The recitals, headings, and subtitles in the Agreement are for the convenience of the Parties and are not to be used for its construction or interpretation.
- 11.6 Complete Agreement; Amendment.** This Agreement sets forth the entire agreement, and supersedes any and all prior agreements, of the Parties with respect to the subject matter. No amendment of any provision of this Agreement will be valid unless set forth in a written amendment hereafter signed by authorized representatives of all Parties.
- 11.7 Waiver.** Any waiver at any time by any Party of its rights with respect to any breach of this Agreement, or with respect to any other matter arising in connection with this Agreement, will not constitute or be deemed a waiver with respect to any other breach or other matter arising in connection with this Agreement.
- 11.8 Counterparts.** This Agreement may be executed in counterparts, which taken together will constitute a single original document.
- 11.9 Execution and Effective Date.** This Agreement has been executed by duly authorized representatives of the Parties and shall become effective as of the Effective Date.
- 11.10 Subcontractors.** Nothing in this Agreement shall prevent a Party from utilizing the services of subcontractors as it deems appropriate to perform its obligations under this Agreement; provided, however, that each party shall require its subcontractors to comply with all applicable terms and conditions of the Agreement in providing such services. The creation of any subcontract relationship shall not relieve the hiring Party of any of its obligations under the Agreement. Each Party shall be fully responsible to the other Party for the acts or omissions of any subcontractor it hires as if no subcontract had been made.

Any applicable obligation imposed by the Agreement upon a Party shall be equally binding upon, and shall be construed as having application to, any subcontractor of such Party. No subcontractor is intended to be, nor will it be deemed to be, a third-party beneficiary of the Agreement.

11.11 Providing of Confidential Information. Each Party may provide and supply to the other Party in its discretion, confidential or proprietary information which may be contained in documents, data, graphic or computerized material or other written or oral information (the "Confidential Information") in connection with or related to this Agreement. Each Party agrees that any and all Confidential Information which has been or may be disclosed, directly or indirectly, to it by or on behalf of the other Party with respect to this Agreement shall be maintained in strict confidence by it and shall not be disclosed by it to any third person or entity (other than its directors, officers, employees or consultants including financial and legal advisors having a need to know such Confidential Information) without the disclosing Party's prior express written consent. Notwithstanding the foregoing, if the Party receiving Confidential Information from the other Party is legally requested or required (including, but not limited to oral questions, interrogatories, requests for information or document, subpoena, civil investigative demand or similar process or; in the opinion of counsel for such Party, by federal or state securities laws or other statutes, regulations, orders or laws) to disclose any Confidential Information, such receiving Party shall promptly notify the other Party, if notice is not prohibited by law, of such request or requirement prior to disclosure so that the other Party may seek an appropriate protective order and/or waive compliance with the terms of this Agreement. If, however, a protective order has been sought, but has not been obtained, or if a protection order is not provided for under the applicable statute, and in the written opinion of counsel for the receiving Party such Party is nonetheless, in the absence of such order or waiver, compelled to disclose such Confidential Information or otherwise stand liable for contempt or suffer possible censure or other penalty or liability, then the receiving Party may disclose that portion (and only that portion) of such Confidential Information as is legally required without liability to the disclosing Party under this Agreement. The Parties each agree that they shall not make any use of any Confidential Information received pursuant to this Agreement except for the limited purposes for which such Confidential Information is given in connection with this Agreement without the express prior written consent of the disclosing Party.

IN WITNESS WHEREOF, the Parties have caused their authorized representatives to execute this Agreement in duplicate originals, each of which shall constitute and be an original effective Agreement among the Parties as of the date first above written.

Ameren Illinois Company
d/b/a Ameren Illinois

By: _____

Name: _____

Title: _____

City of Oglesby

By: _____

Name: _____

Title: _____

Illinois Municipal Electric Agency

By: _____

Name: _____

Title: _____

Attachment A-1

Geographic Diagram

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This document contains Critical Energy Infrastructure Information ("CEII"). It should not be posted publicly and should only be shared with people who have executed a CEII General Non-Disclosure Agreement.

Attachment A-2
Delivery Point One-Line Diagram

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