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Receipt#: 2011-00046868
Page 1 of 54

IL Rental Housing Fund: \$0.00
Lake County IL Recorder
Mary Ellen Vanderventer Recorder

EXECUTION COPY
05/04/2011

File **6761153**

INTERGOVERNMENTAL AGREEMENT REGARDING
THE DIAMOND LAKE DIVERSION PHASE 2 PROJECT
BETWEEN THE
VILLAGE OF MUNDELEIN
AND THE
COUNTY OF LAKE, ILLINOIS

Mail To:
Lake City Public Works
650 W. Winchester Rd
Libertyville, IL 60048

THIS AGREEMENT entered into this 14th day of June, 2011, by and between the VILLAGE OF MUNDELEIN, an Illinois municipal corporation ("Village"), and the COUNTY OF LAKE, a body politic and corporate of the State of Illinois ("County"):

WITNESSETH:

WHEREAS, the County, as part of the implementation of long-term infrastructure improvements to County-owned regional wastewater treatment facilities for pollution control purposes, is working on the Diamond Lake Diversion Phase 2 Project (a drawing of the overall project is attached hereto and made a part hereof as Exhibit A); and

WHEREAS, the Diamond Lake Diversion Phase 2 Project includes, inter alia, the construction of a sanitary sewer interceptor, force main and pump station improvements, a portion of which improvements are contemplated to be constructed on or under real property located within the municipal jurisdiction of the Village, namely Lot 5 in Woodhill Subdivision with PIN 1506201006 and the Hilgers Court right-of-way (as depicted on the sketch drawing attached hereto and made a part hereof as Exhibit B); and

WHEREAS, Woodhill Subdivision Lot 5 is Zoned R-1 within the Village and the pump station improvements shown on Exhibit B is a permitted use in the Village's R-1 Zoning District; and

WHEREAS, the County has entered into an agreement with the property owner of Woodhill Subdivision Lot 5 (a copy of which is attached hereto and made a part hereof as Exhibit C) authorizing the location, construction, maintenance and operation of the sanitary sewer, force main and pump station improvements on said lot; and

WHEREAS, the Diamond Lake Diversion Phase 2 pump station improvements, which shall be located, constructed, operated and maintained on Lot 5 in the Woodhill Subdivision, are comprised of a driveway area, a subsurface wet well and valve vault, an above ground control panel cabinet (approx. 12' by 13') and an above ground generator (approx. 8' by 15'), all as shown on Exhibit B; and

WHEREAS, the County and the Village have contemporaneously herewith entered into an Agreement for Retail Sanitary Sewer Service (the "Retail Sanitary Sewer Service

54 SRD

Agreement”) in an area within the corporate limits of the Village, with the exception of the parcel with PIN 1506201013 which is currently in unincorporated Lake County, which presently comprises approximately 55.79 acres (the “Village Service Area”); wherein the County has agreed to (a) continue to provide sanitary sewer service to certain improved properties within the Village Service Area presently comprising approximately 35.91 acres, and (b) provide sanitary sewer service, at such time in the future as the Village may request, to certain unimproved properties within the Village Service Area presently comprising approximately 19.88 acres, and (c) provide sanitary sewer service to other properties in the area after such properties are annexed to the Village and the Village requests the County to provide such service, subject to Amendment of the Retail Sanitary Sewer Service Agreement and provided the County has available capacity to accommodate such increase; and

WHEREAS, this Intergovernmental Agreement and the Retail Sanitary Sewer Service Agreement advance a regional pollution control facility and provides environmental and pollution control benefits for both the Village and the County now and in the future.

WHEREAS, the County, considering the “Considerations and Principles Relating to Intergovernmental Agreements for Sewer and Amendments to Existing Agreements,” attached hereto and made of part hereof as Exhibit D, contained in the Public Works & Transportation Committee Resolution of April 5, 2005, determines that authorization to connect those described Village Service Area properties to the County Sewerage System is approved as provided in the Retail Sanitary Sewer Service Agreement between the Village and the County executed contemporaneously herewith, attached hereto and made a part hereof as Exhibit E; and

NOW, THEREFORE, it is hereby agreed to between the parties as follows:

Section 1. Authorization and Permit for Facilities.

Pursuant to the terms and conditions of this Intergovernmental Agreement, the Village hereby authorizes and permits the County, or its successors, the right to use or occupy a portion of the Hilgers Court right-of-way(the “Premises”, as depicted on the Plat of Subdivision recorded May 9, 1956 in Book 1442 pages 363-366 in Lake County, Illinois) for the installation of a sanitary sewer interceptor and force main and to own, operate, maintain, replace or enlarge in place said sanitary sewer interceptor and force main. Furthermore the Village acknowledges that the County will be installing a sanitary sewer interceptor, force main, pump station and the necessary appurtenances on Lot 5 of the Woodhill Subdivision in the Village. The improvements to be installed by the County on a portion of the Hilgers Court right-of-way and Lot 5 in the Woodhill Subdivision are collectively referred to herein as the “Facilities.”

Section 2. Installation of Facilities.

A. In installing the Facilities and thereafter operating, maintaining, repairing, replacing or enlarging in place the Facilities in the Premises, the County agrees to comply with all applicable state and local laws, including all applicable Village codes, ordinances, rules and regulations, as amended from time to time;

- B. Prior to commencing work on the installation of the Facilities, the County shall, at its expense, submit complete permit applications and all plans and specifications relating thereto as may be required by the Village;
- C. The County acknowledges that the primary use of the Hilgers Court right-of-way is to provide for the safe and efficient movement of vehicular traffic. All other uses of the right-of-way that do not support or provide for this primary use shall be subordinate;
- D. The County acknowledges that the Village is not responsible for providing room within the Hilgers Court right-of-way for the Facilities, and lack of sufficient room may be cause for not permitting the Facilities to be located within the Hilgers Court right-of-way;
- E. The County agrees to obtain, at its expense, all federal, state and local approvals required, as they apply to the Facilities;
- F. The County is responsible for obtaining, at its expense, all private easements, licenses and other approvals, if any, required for the Facilities; and
- G. As a condition to approval of the Facilities by the Village, the County and its successors agree:
 - 1. to restore all property impacted by installation of the Facilities and thereafter when doing any work regarding their maintenance, repair, replacement or enlargement in place.
 - 2. to obtain or require of contractors, appropriate bonds and/or insurance;
 - 3. to maintain the completed Facilities and keep them in a good condition and repair;
 - 4. to make, or cause to be made, any required adjustments or changes to the Facilities due to maintenance or construction work performed by the Village;
 - 5. to be responsible for all costs related to the Facilities; and
 - 6. to provide the Village with as built drawings of the Facilities promptly upon the completion thereof.

Section 3. Restoration of Hilgers Court Right-Of-Way.

The County agrees that, subsequent to any work on the Facilities, it shall be responsible for the restoration of the Hilgers Court right-of-way to a condition as good or better than that which existed prior to such work. All work on the Facilities shall comply with the requirements of the Mundelein Subdivision Control Ordinance and all other Village codes, ordinances, rules and regulations, as amended from time to time.

Section 4. Ownership of Facilities.

The ownership of the Facilities shall be vested solely in the County.

Section 5. License/Permits.

The County agrees that the location of the Facilities within the Hilgers Court right-of-way shall be as permitted and identified by the Village, and that any work on the Facilities, involving any excavation(s), shall be in conformance with, and comply with reasonable engineering principals, and the requirements of the approved plans and specifications and all applicable Village codes, ordinances, rules and regulations, as may be amended from time to time.

Section 6. Hold Harmless.

The County agrees to fully indemnify, save harmless and defend the Village against all claims, causes of action, suits, damages, or demands that may arise, or be alleged to have arisen, out of or in connection with the actions or inactions of the County or its authorized agents, servants, employees, or contractors with respect to the installation, use, operation, maintenance, inspection, repair, replacement, alteration, removal or abandonment of the Facilities.

Section 7. Insurance.

The County shall procure, maintain and keep, and shall cause each agent and contractor of the County to so procure, maintain and keep, in full force and effect insurance policies, at no cost to the Village, of such types, amounts and with carriers satisfactory to the Village, for the entire time that the initial construction and installation of the Facilities is ongoing hereunder and at such time or times as County or any such agent or contractor shall thereafter enter the license/permit area for the purpose of performing any maintenance, repair, replacement or enlargement in place of the Facilities, or any portion thereof.

Section 8. Building and Zoning.

The Village agrees that the pump station portion of the Facilities as shown on Exhibit B satisfies all Village requirements relative to setbacks and existing R-1 zoning on Lot 5.

Section 9. County Sanitary Sewer Service to Properties within the Village of Mundelein's Corporate Limits.

The County Sanitary Sewerage System is not a part of the Village of Mundelein's Sanitary Sewer System. However, the Retail Sanitary Sewer Service Agreement obligates the County to (a) continue to provide sanitary sewer service to certain improved properties within the Village Service Area presently comprising approximately 35.91 acres, and (b) provide sanitary sewer service, at such time in the future as the Village may request, to certain unimproved properties within the Village Service Area presently comprising approximately 19.88 acres, and (c) provide sanitary sewer service to other properties in the area after such properties are annexed to the Village and the Village requests the County to provide such services subject to Amendment of the Retail Sanitary Sewer Service Agreement and provided the County has available capacity to accommodate such increase.

Section 10. Third Party Relocation of the County's Force Main portion of the Facilities.

Any relocation of the force main portion of the Facilities, if requested by a third party, shall require the Village's consent and approval. Any relocation of the force main shall be first agreed to and approved by the County and all construction work in regard thereto shall be done by the requesting third party at its expense. The Village and County shall not be responsible for any costs of relocating the force main.

Section 11. Amendment.

No amendment, modification, addition, deletion, revision, alteration or other change to this Intergovernmental Agreement shall be effective unless and until such change is reduced to writing and approved by the necessary authorities and representatives of the Village and the County.

Section 12. Governing Law.


This Agreement is entered into and governed by, and shall in all events be construed in accordance with, the laws of the State of Illinois.


Section 13. Recording


This Agreement may be recorded by any party hereto with the Lake County Recorder of Deeds' Office.


IN WITNESS WHEREOF, the parties hereto have signed this Intergovernmental Agreement on the day and year first above written.

VILLAGE OF MUNDELEIN,
an Illinois municipal corporation

By: 
Mayor

Attest: 
Village Clerk

COUNTY OF LAKE
By: 
Chairman

Attest: 
County Clerk

COUNTY OF LAKE)
)SS
STATE OF ILLINOIS)

I, the undersigned, a Notary Public, in and for the County and State aforesaid, do hereby certify that KENNETH H. KESSLER Mayor and ESMIE DAHLSTROM Village Clerk personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that they signed, sealed and delivered, said instrument as, their free and voluntary act for uses and purposes therein set forth.

Given under my hand and official seal, this 14th day of JUNE, 2011.



Marie G. Cecchi
Notary Public

COUNTY OF LAKE)
)SS
STATE OF ILLINOIS)

I, the undersigned, a Notary Public, in and for the County and State aforesaid, do hereby certify that David Stolman County Board Chairman and Willard Helander County Clerk personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that they signed, sealed and delivered, said instrument as, their free and voluntary act for uses and purposes therein set forth.

Given under my hand and official seal, this 26th day of June, 2011.



Suzann E. Denlinger
Notary Public

Exhibit A

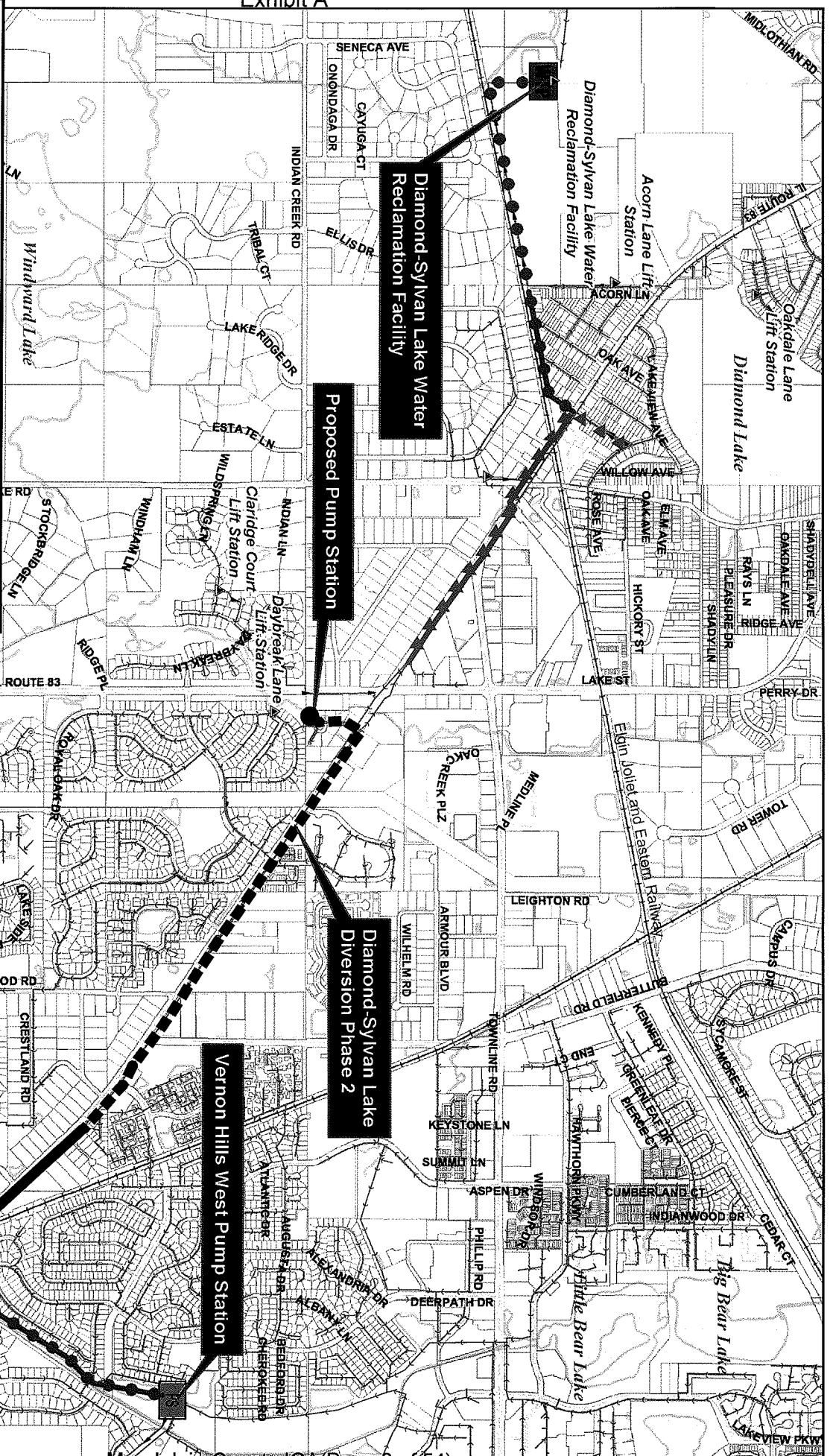


Exhibit A
Diamond / Sylvan Lake Diversion Project

LakeCounty
Department of Public Works
650 West Winchester Road
Libertyville, Illinois 60048
(847) 377-7500
(847) 377-7173 FAX

APRIL 2011
1660

0 500 1,000 Feet

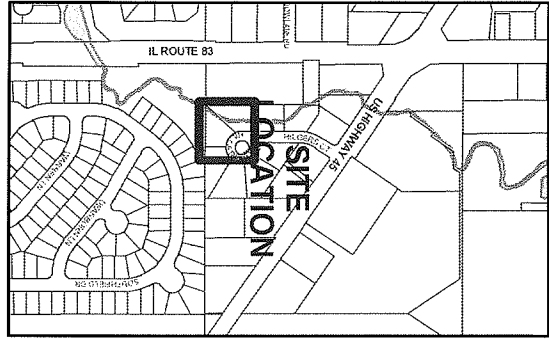
North Arrow

Legend:

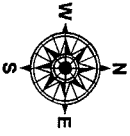
- ▲▲▲▲▲ Force Main
- ▲▲▲▲▲ Gravy Main
- Diversion Phase 1 - Completed
- - - Diversion Phase 2 - Proposed
- ▬▬▬▬ Gravy Main
- ▬▬▬▬ Force Main
- Diversion Phase 3 - Future
- Gravy Main
- Existing Gravy Main
- Existing Pressurized Main

Exhibit B

Exhibit B
Proposed Hilgers Ct Lift Station



- Property Line
- Proposed Site Components**
- ▨ A- Parking/Driveway
 - ▨ B- Wet Well/Valve Vault
 - ▨ C- Motor Control Center
 - ▨ D- Generator



LakeCounty
Department of Public Works
650 West Winchester Road
Libertyville, Illinois 60048
(847) 377-7500
(847) 377-7173 FAX
JANUARY, 2011
2030

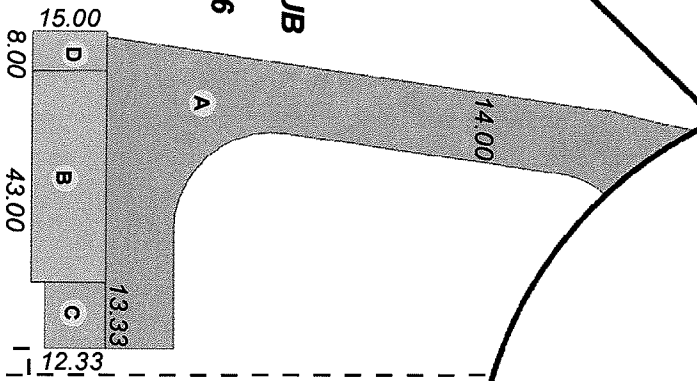
WOODHILL SUB
LOT 4
15-06-201-005

WOODHILL SUB
LOT 5
15-06-201-006

HILGERS CT

WOODHILL SUB
LOT A

WOODHILL SUB
LOT 6
15-06-201-013



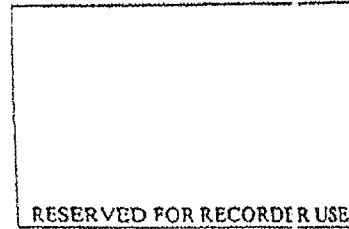
Easement to be vacated
by LCPW

Existing 20' Easement

Existing 10' Easement

Exhibit C

**LAKE COUNTY, ILLINOIS
UTILITY EASEMENT**



P.I.N. 15-06-201-006
SITE ADDRESS: 25532 N. Hilgers Court, Mundelein, IL 60060
Woodhill Sub -- Lot 5

OWNER ADDRESS:
The Chicago Trust Company
440 Lake Street
Antioch, IL 60002

CC: Jim Best
Roadside Auto & Truck Trans.
2725 Belvidere Road
Waukegan, IL 60085

The Chicago Trust Company, N.A.
successor trustee to
Wayne Hummer Trust, N.A.
successor trustee to
State Bank of the Lakes as
Trustee U/T/A dated 10/22/2003
known as Trust No. 2003-122

The undersigned Owner and Grantor, The Chicago Trust Company, N.A. being the record owner of Lot 5 in Woodhill Subdivision, Mundelein, Illinois (said Parcel being legally described on attached Exhibit A), in consideration of \$ 10.00 and other good and valuable consideration, the consideration of which is hereby acknowledged, hereby grants to the Grantee, County of Lake, Illinois and their successors and assigns, a perpetual right-of-way easement in, upon, under and across the land hereafter specifically described for the purpose of ingress and egress for installation, operation and maintenance of a sanitary sewer pumping station, sanitary sewer mains and any necessary appurtenances upon the premises described, and for no other purposes except by granted authority from said Grantor.

Subject to the rights of the Grantee, the Grantor herein shall have the right to cultivate, use and occupy the land except that no structure or object, permanent or temporary, shall be erected on hereinafter described easement and that no digging or excavating shall be done along said easement that would in any way interfere with said right-of-way. Any existing structures within said easement shall be allowed to remain and may be maintained by the Grantor.

PERMANENT UTILITY EASEMENT LEGAL DESCRIPTION

See attached Exhibit A for legal description of Easement Premises.

TEMPORARY UTILITY EASEMENT PROVISIONS

The Grantor hereby agrees to allow the Grantee, its employees, agents, and other persons acting on its behalf, use of the portion of the parcel denoted on Exhibit B as Temporary Easement to assist in constructing the aforementioned sanitary sewer pumping station and sanitary sewer mains until said improvements constructed on Lot 5 are accepted by the

Exhibit C

Grantee by a duly executed Bill of Sale or two (2) years after this document is executed, whichever occurs first.

DURING CONSTRUCTION

1. The integrity of private property surrounding the construction area will be maintained.
2. Roads and private driveways will be kept open at the close of each working day.

AFTER CONSTRUCTION

1. All fences, roads and improvements will be repaired and restored to the original condition existing prior to beginning of construction.
2. Debris, brush, rocks, stumps and dirt generated during construction will be removed from the site.
3. Topsoil will be replaced, fine-graded, sodded or hydroseeded, and restored to its original state of usefulness, in the disturbed area.
4. For a period of one year after completion of restoration, trench surfaces will be maintained in a safe condition and restored to the original grade as necessary.

LIABILITY

As a condition to acceptance of this grant of easement, the Grantee and their assigns agree to hold the Grantor free and harmless from any and all lawsuits and claims, which may in any way result from any occurrence as a result of said Grantee, their assigns, employees or their contractors operating within or adjacent to the easement area aforesaid.

STIPULATIONS

It is covenanted and agreed between the Grantor and Grantee as follows:

1. The Grantor shall have and retain all rights to the use and occupation of said real estate, except as herein expressly granted and provided and such use and occupation by the Grantor shall not be unnecessarily interfered with by any construction work performed under this grant.
2. The Grantor will not in any manner disturb, damage, destroy, injure or obstruct said improvements, or any part or the appurtenances thereof, and will not obstruct or interfere with said Grantee, their contractors or sub-contractors or with the agents or employees of them or either of them, in the exercise of any rights, privileges, or authorities hereby given and granted.

Exhibit C

3. The Grantee shall signify their acceptance of this grant and easement by the recording thereof.
4. The Grantor is the lawful record Owner of the subject property and is authorized to execute this easement instrument.
5. This indenture and covenants and agreements herein contained shall run with the land and shall be binding upon the Grantor, Grantee, lessees, successors, heirs, devisees and assigns, and any, either all of the same, of the parties hereto and shall be in full force and effect when accepted by the Grantee in the manner herein provided.
6. Once the new pumping station and sanitary sewer mains are operational and approved by all State and Local Agencies having jurisdiction, the Grantee shall vacate their portion of the existing 20 foot easement granted by Document No. 2693507 as recorded with the office of the Lake County Recorder and abandon the accompanying sanitary sewer pipe in place.
7. The Grantee agrees to install asphalt pavement consisting of 10" of aggregate base course, 1.5" of bituminous asphalt binder and 1.5" of bituminous asphalt surface, subject to approval of the Village of Mundelein, within the area of Lot 5 east of the proposed lift station bounded by the easterly, northerly and southerly property lines, provided that no stormwater detention, compensatory storage or storm sewers will be required by the Village.

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EXHIBIT A

Legal Description of Lot 5

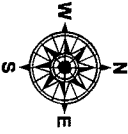
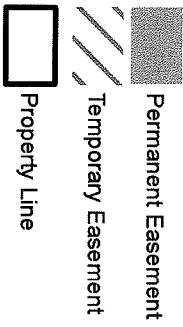
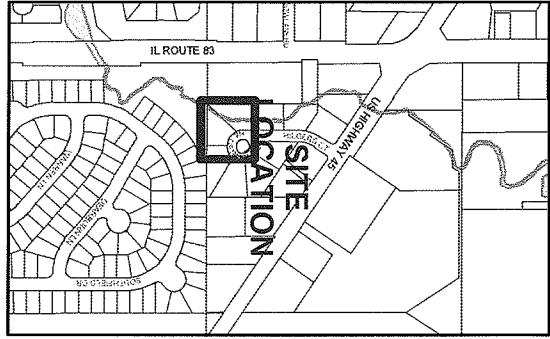
Lot 5 in Woodhill Subdivision, a Subdivision of part of Lot 1 in the north east 1/4 of Section 6, Township 43 North, Range 11, East of the third principal meridian, according to the plat thereof recorded May 9, 1956 as document 907590, in Book 1442 of records, page 363, in Lake County, Illinois.

Easement Premises Legal Description

That part of Lot 5 in Woodhill Subdivision, being a subdivision of part of the Northwest one-half of government Lot 1 of the Northeast Quarter of Section 6, described as follows: beginning at the northern most corner of said Lot 5; thence S43°43'39"W along the west line of said Lot 5, a distance of 6.02 feet; thence S08°12'16"W, a distance of 146.63 feet to the south line of said Lot 5; thence N90°00'00"E along said south line of Lot 5, a distance of 76.94 feet; thence N00°10'35"W, parallel with the east line of said Lot 5, a distance of 43.97 feet; thence N90°00'00"W, a distance of 29.03 feet to a point of curve, being concave to the northeast and having a radius of 15.00 feet, a distance of 25.71 feet; thence N08°12'16"E a distance of 64.18 feet to the north line of said Lot 5; thence along said north line, being a curve concave to the northeast, which chord bears N34°41'57"W, having a radius of 84.00 feet, a distance of 30.25 feet to the point of beginning, all in Township 43 North, Range 11 East of the third principal meridian, in Lake County, Illinois.

Exhibit C

Exhibit B
Proposed Hilgers Ct Lift Station



Lake County
Department of Public Works
650 West Winchester Road
Libertyville, Illinois 60048
(847) 377-7500
(847) 377-7173 FAX
FEBRUARY, 2011
2085

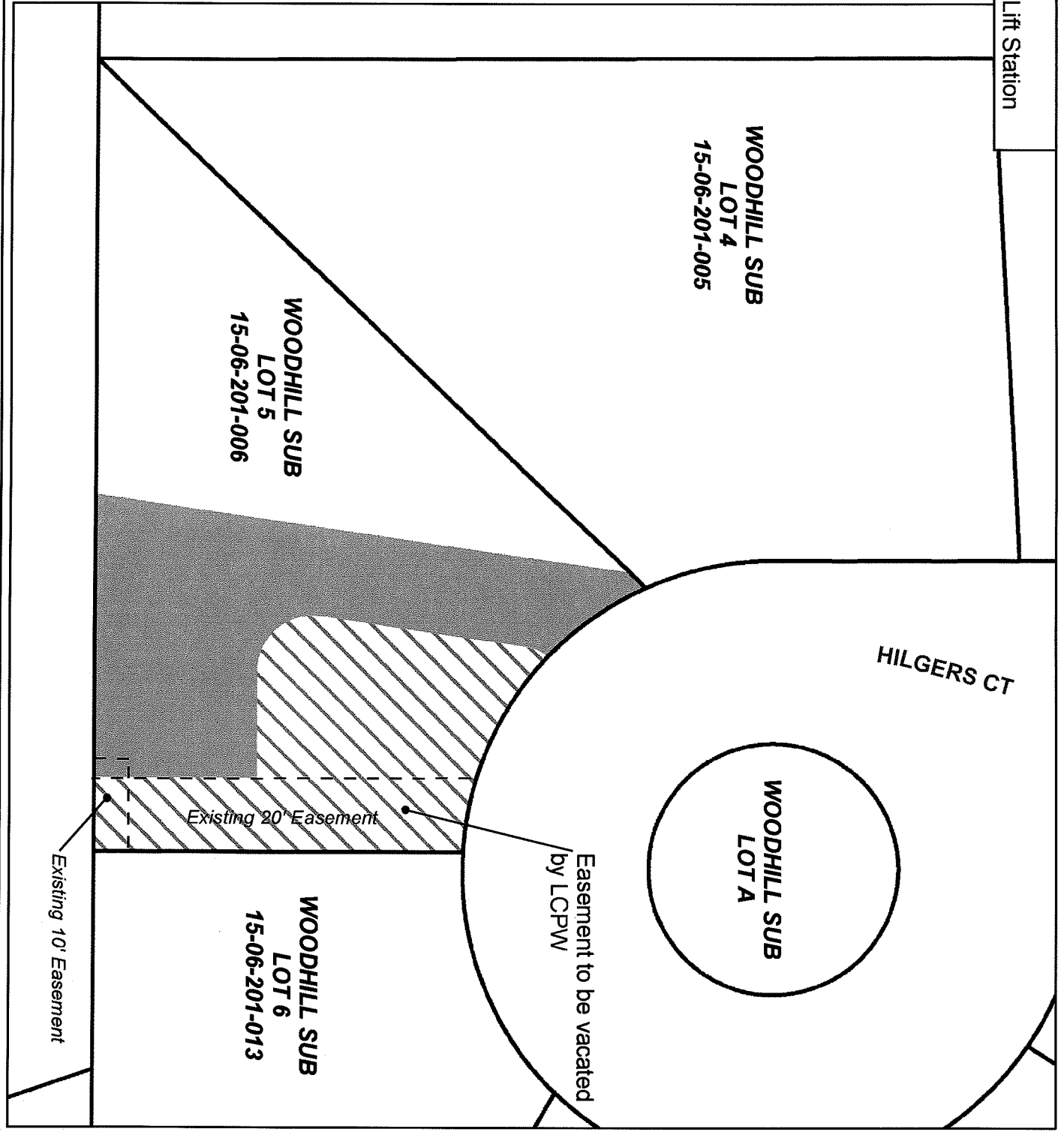


Exhibit D
RESOLUTION

WHEREAS, the County of Lake (County) owns and operates local and regional sanitary sewer systems in various parts of the County; and

WHEREAS, the County has entered into intergovernmental agreements and amendments to agreements for sewer service with several municipalities and government agencies in the County; and

WHEREAS, in making decisions relating to sewer service, the County should evaluate the effects from a policy and practical perspective; and

WHEREAS, the County has authorized the Public Works & Transportation Committee to review and evaluate requests for sewer service; and

WHEREAS, in order to most effectively and efficiently evaluate and make decisions relating to sewer service, it would be appropriate and prudent for the Public Works & Transportation Committee to establish principles and factors to be assessed when evaluating sewer service decisions; and

WHEREAS, the Public Works & Transportation Committee has established the attached policies, "Considerations and Principles Relating to Intergovernmental Agreements for Sewer and Amendments to Existing Agreements", which are hereby adopted and may be revised from time-to-time; and

WHEREAS, it is appropriate for the Public Works & Transportation Committee to adopt the "Considerations and Principles Relating to Intergovernmental Agreements for Sewer and Amendments to Existing Agreements".

NOW, THEREFORE BE IT RESOLVED, that the Public Works and Transportation Committee approves this resolution adopting a sewer policy, "Considerations and Principles Relating to Intergovernmental Agreements for Sewer and Amendments to Existing Agreements", in the substantial form contained herein.

Aye Nay

Diana O'Kelly ✓
CHAIR

VICE CHAIR

[Signature] ✓

Ann B. Maine ✓

[Signature] ✓

Michael A. Calkett ✓

PUBLIC WORKS AND TRANSPORTATION COMMITTEE
MEETING OF APRIL 5, 2005

CONSIDERATIONS AND PRINCIPLES RELATING TO INTERGOVERNMENTAL AGREEMENTS FOR SEWER AND AMENDMENTS TO EXISTING AGREEMENTS

1. Premises:

- a. The County is a regional government.
- b. County decisions often have regional effects that should be evaluated.
- c. In addition, as the primary regional government in Lake County, the County has a special responsibility to encourage intergovernmental cooperation.

2. Decision-Making Process:

- a. In order to give appropriate consideration to intergovernmental impacts of decisions, the external effects of decisions should be thoroughly evaluated through consultation with affected or potentially affected governmental units, agencies, and departments.
- b. Decisions should be made with due consideration to the objectives of the County's Framework Plan.
- c. Decisions should also be made giving due consideration to the direct and indirect effects of such decisions, including the totality of the benefits and impacts of the decision on affected governmental units, agencies, and departments.
- d. Ultimately, the County as a regional government must exercise its legislative discretion in determining what it believes is best for the County and its residents as a whole.

3. Factors to Be Assessed Relating to Sewer Service Decisions:

- a. The County is not a public utility, but it provides certain public services with the goal of enhancing the well being of all Lake County residents. This goal is ordinarily achieved through the use of regional publicly owned wastewater treatment facilities.
- b. In making decisions related to sewer service, the County should evaluate both direct and indirect effects from both a policy and practical perspective. Those effects may include without limitation:

• Consistency with the Framework Plan	• Impact on other affected public bodies
• Consistency with relevant municipal plans	• Fiscal and related benefits
• Available and committed capacity of system	• Level of support/opposition to proposal
• Impact on County roads and other services	• Specific environmental concerns

- c. Coordination of concerns of affected governments is important to achieve appropriate planning and wise investment of public resources. This is increasingly important as development spreads throughout the County and actions of one community are more likely to affect other communities.

Exhibit D

- d. To better ensure that decisions are made based on understandable parameters, sewer service agreements and amendments to such agreements should ordinarily be based on specific limitations on the County's obligations to provide such services. Those limitations should be expressed in terms of capacity and, when appropriate, the nature of the development to be served. In addition, amendments to existing sewer service agreements should ordinarily be considered in the context of specific developments to be served.
- e. Although past practices are important, the considerations and effects of sewer decisions are ever-evolving and cannot be made based on static models of precedent.

**AGREEMENT FOR RETAIL
SANITARY SEWER SERVICE
IN THE MUNDELEIN SERVICE AREA**

Entered Into By and Between

The County of Lake

and

The Village of Mundelein

as of

JUNE 14, 2011

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**AGREEMENT FOR RETAIL SANITARY SEWER SERVICE
IN THE MUNDELEIN SERVICE AREA**

THIS AGREEMENT is dated as of this _____ day of _____, 2011, and is made and entered into by and between the COUNTY OF LAKE, an Illinois unit of local government, hereinafter referred to as the "County," and the VILLAGE OF MUNDELEIN, an Illinois municipal corporation, hereinafter referred to as the "Village." The County and the Village are sometimes referred to herein individually as the "Party" and collectively as the "Parties."

RECITALS

1. The public health, welfare, and safety of the residents of the County require the development of coordinated and adequate systems for the collection and treatment of sewage so as to eliminate pollution of lakes and streams.

2. Pursuant to "An Act in Relation to Water Supply, Drainage, Sewage, Pollution, and Flood Control in Certain Counties," as amended, 55 ILCS 5/5-15001 through 5/5-15022, and other applicable statutory authority, the County has established a Department of Public Works for the purpose of providing sanitary sewer service to designated areas of the County, including the Southeast Central Lake Facility Planning Area established pursuant to the Illinois Water Quality Management Plan, and has prepared plans and programs for providing such service and the related facilities.

3. Pursuant to such plans and programs, the County has constructed, owns, and operates a system of interceptor sanitary sewers and a wastewater treatment plant that provides sanitary sewer service in portions of the Southeast Central Lake Facility Planning Area.

4. The Village and the County have contemporaneously herewith entered into a certain Intergovernmental Agreement regarding the Diamond Lake Diversion Phase 2 Project

Exhibit E

(the "Intergovernmental Agreement") wherein the Village is permitting the County to install certain sanitary sewer facilities within the municipal jurisdiction of the Village, namely Lot 5 in the Woodhill Subdivision and the Hilgers Court right-of-way.

5. The County and the Village desire to enter into this Agreement for the provision of County sanitary sewer services within the corporate limits of the Village of Mundelein defined in Section 2.14 hereof as the "Mundelein Service Area," which presently consists of 55.79 acres of property and is depicted on Exhibit A attached hereto and made a part hereof.

6. Connection to the County Sewerage System is the most cost-effective and environmentally protective solution to the long-term sanitary sewer service needs of those portions of the Village within the Southeast Central Lake Facility Planning Area.

7. The County and the Village are entering into this Agreement to avoid wasteful duplication of public facilities and to promote and provide for the efficient and economic development and use of costly public infrastructure pursuant to sound and logical public plans.

AGREEMENT

In consideration of the mutual covenants and agreements contained herein, the County and the Village do hereby agree as follows:

ARTICLE I

RECITALS

The foregoing recitals are, by this reference, fully incorporated into and made a part of this Agreement.

ARTICLE II

DEFINITIONS

2.1 Biochemical Oxygen Demand.

The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory test procedures in five days at 20°C.

2.2 **Collection.**

The receipt of Sewage directly from the service connection of an individual Customer and the delivery of such Sewage to the County Diamond-Sylvan Lake Interceptor or to any other provider of Transport or Treatment services.

2.3 **Comprehensive Plan.**

The Regional Wastewater Plan of the County approved by resolution dated December 17, 1968 and amended from time-to-time thereafter.

2.4 **Connection Charge.**

The charges from time-to-time imposed by the County on Customers newly connecting to the County Sewerage System as a condition of such connections.

2.5 **County Diamond-Sylvan Lake Interceptors.**

The system of Sanitary Sewer interceptors and related facilities that are tributary to the New Century Town Plant, as generally described in the Comprehensive Plan, which interceptors are constructed in and near the Village and owned and operated by the County pursuant to the Comprehensive Plan and this Agreement to receive Sewage from the Mundelein Service Area, as defined herein, and other areas in the Southeast Central Lake Regional Area, together with such extensions of, and additions to, such system of interceptors and facilities as may be owned and operated by the County in the Southeast Central Lake Regional Area.

2.6 **County Rate Ordinance.**

An ordinance entitled "An Ordinance Amending Certain Prior Rate Ordinances for the Use and Service of Certain Waterworks and Sewerage Systems of the County of Lake in the State of Illinois" enacted by the County on and dated September 10, 2010, together with all such amendments thereto as have been or may be enacted from time-to-time, and any and all other ordinances adopted or rules promulgated by the County relating in any way to the rates, fees, and charges for the use and service of any or all County Water and Sewerage systems.

Exhibit E

2.7 **County Sewerage System.**

The New Century Town Plant, the Diamond-Sylvan Lake Interceptors, and all other Sanitary Sewers, lift stations, connection facilities, and related facilities, as well as associated land, easements, and rights-of-way, that the County, from time-to-time, owns or operates for the purpose of, or related to, Transporting and Treating Sewage within the Southeast Central Lake Regional Area. In addition, upon the County's acceptance of ownership of any sewerage collection facilities necessary or convenient to serve a tract or parcel within the Mundelein Service Area, as defined in Section 2.14 hereof, such sewage collection facilities shall become part of the County Sewerage System.

2.8 **County Sewer Ordinance.**

An ordinance entitled "An Ordinance Regulating the Use of Public and Private Sewer and Drains, Private Sewage Disposal, the Installation and Connection of Building Sewers, and the Discharge of Waters and Wastes into the Public Sewerage System(s) of the County of Lake in the State of Illinois," enacted by the County on and dated February 9, 1988, together with all such amendments thereto as have been or may be enacted from time-to-time, and any and all other ordinances adopted or rules promulgated by the County relating in any way to the Collection, Transport, Pretreatment, or Treatment of Sewage in the County.

2.9 **Customer.**

Any dwelling, business, office, industrial, institutional, or other building, facility, or entity that discharges Sewage, either directly or indirectly, into the County Sewerage System.

2.10 **Force Majeure.**

Orders of the United States, State of Illinois, or other civil or military authority, changes in applicable law, strikes, lock-outs, acts of God, inability to obtain labor or materials, enemy action, civil commotion, fire, unavoidable casualty, or other similar events or circumstances.

Exhibit E

2.11 **Industrial Waste.**

Liquid and water-carried waste discharged, permitted to flow, or escaping from industrial, manufacturing, or production processes, or from the development, recovery, or processing of any natural resource.

2.12 **Infiltration Water.**

Water that enters a Sanitary Sewer from the surrounding soil or surrounding land.

2.13 **Mundelein Service Area.**

The areas depicted on Exhibit A attached hereto and made a part hereof comprising approximately 55.79 acres which are located within the Southeast Central Lake Regional Area and within the corporate limits of the Village, with the exception of the parcel with PIN 15-06-201-013 which is currently in unincorporated Lake County. Exhibit B depicts (a) approximately 35.91 acres of improved property presently being served by the County Sewerage System and (b) approximately 19.88 acres of property to be served in the future by the County Sewerage System upon the Village requesting all or a portion thereof being connected to the County Sewerage System.

2.14 **New Century Town Plant.**

The New Century Town Sewage Treatment plant, and related facilities, owned and operated by the County and serving the Southeast Central Lake Regional Area pursuant to the Comprehensive Plan and this Agreement, together with extensions of, and additions to, such plant and facilities.

2.15 **Population Equivalent or P.E.**

The calculated population that would normally produce 100 gallons of Sanitary Sewage per day containing 0.17 pounds of Biological Oxygen Demand and 0.20 pounds of Suspended Solids or, for Industrial Waste, the estimated population that would produce Sanitary Sewage equal in strength and composition to a unit of volume of Industrial Waste on

Exhibit E

the basis of the higher of said factors.

2.16 **Pretreated Sewage.**

Sanitary Sewage or Industrial Waste that has been subjected to Pretreatment.

2.17 **Pretreatment.**

The process, or any portion of the process, of changing the physical, chemical, or biological character of Sanitary Sewage or Industrial Waste so as to meet the pretreatment standards promulgated under Section 307(b) and 307(c) of the Federal Clean Water Act, or any amendment thereto, as well as any pretreatment standards heretofore or hereafter established in the County Sewer Ordinances.

2.18 **Sanitary Sewage.**

Liquid and water-carried waste discharged from the plumbing fixtures of dwellings and other buildings, but not including such waste discharged from any industrial process.

2.19 **Sanitary Sewer.**

Any sewer that carries Sewage.

2.20 **Sanitary Sewer Service.**

The Collection, Transport, Pretreatment, and Treatment of Sewage, or any combination of one or more of such activities.

2.21 **Sewage.**

Sanitary Sewage, Industrial Waste, and Pretreated Sewage, together with such Infiltration Water as may be permitted pursuant to the County Sewer Ordinances.

2.22 **Sewage Collection Facilities.**

All Sanitary Sewers, lift stations, connection facilities, and related facilities, as well as associated lands, easements, and rights-of-way, whether located within or without the Mundelein Service Area, necessary or convenient for the collection of Sewage from individual Customers located within the Mundelein Service Area and to deliver such Sewage to the

Exhibit E

Diamond-Sylvan Lake Interceptors in accordance with the County Sewer Ordinances, all other applicable laws, ordinances, and regulations, and sound engineering practices.

2.23 **Sewage Collection Facilities Cost.**

The entire, actual cost of designing, constructing, installing, and placing in operation the Sewage Collection Facilities necessary or convenient to serve a tract or parcel within the Mundelein Service Area, or a portion of such Facilities, for which Sanitary Sewer Service is being sought.

2.24 **Sewer User Fee.**

The standard rate charged by the County for Collection, Transport, and Treatment of Sewage of a specified volume, strength, and composition.

2.25 **Southeast Central Lake Regional Area.**

The Southeast Central Lake Facilities Planning Area as established in the Illinois Water Quality Management Plan, as such plan may be amended from time-to-time.

2.26 **Suspended Solids.**

Solids that either float on the surface of, or are in suspension in, Sewage or other liquids and that are removable by laboratory filtering.

2.27 **Transport.**

The conveyance of Sewage from the point or points of discharge of the Mundelein Sewage Collection System to the New Century Town Plant or to any other provider of Treatment service.

2.28 **Treatment.**

The process, or any portion of the process, of changing the physical, chemical, or biological character or composition of Sanitary Sewage or Industrial Waste not requiring Pretreatment under the standards of the County Sewer Ordinances or the Federal Clean Water Act, or of Pretreated Sewage, so as to meet regulatory requirements.

ARTICLE III

CONSTRUCTION

3.1 Sewage Collection Facilities.

A. Village Obligations. The Village shall adopt and approve all ordinances, regulations, and agreements necessary, and take all other action necessary, to require all owners, subdividers, developers and redevelopers of any tract or parcel in the Mundelein Service Area, in connection with the development or redevelopment of any such tract or parcel and as a condition to receiving (i) any subdivision, planned development, or other development or redevelopment approval for such tract or parcel from the Village or (ii) Sanitary Sewer Service for such tract or parcel from the County Sewerage System, to design, construct, install, and dedicate to the County all portions of the Sewage Collection Facilities necessary or convenient to serve such tract or parcel in accordance with this Agreement, the County Sewer Ordinances, all other requirements of law, and sound engineering practices. In fulfilling its responsibilities hereunder, the Village shall, at a minimum, adopt and approve ordinances, regulations, and agreements requiring the owner, subdivider, developer or redeveloper of any tract or parcel in the Mundelein Service Area, as a condition to receiving (i) any subdivision, planned development, or other development or redevelopment approval for such tract or parcel from the Village or (ii) Sanitary Sewer Service for such tract or parcel from the County Sewerage System, to undertake, or cause to be undertaken, at no cost to the Village or the County, at least the following work relating to the Sewage Collection Facilities necessary or convenient to serve such tract or parcel:

1. Obtain engineering services, from a firm experienced in the design of public sewerage systems and mutually acceptable to the Village and the County, for the design, plans and specifications, and construction of the portions of the Sewage Collection Facilities necessary or convenient to serve such tract or parcel;
2. Obtain and convey to the County, on such forms as may be acceptable to the County, all easements, rights-of-way, licenses, and other property rights that are necessary or convenient to

Exhibit E

construct, install, operate, and maintain the portions of the Sewage Collection Facilities necessary or convenient to serve such tract or parcel, including the preparation of appropriate surveys, agreements, and other relevant documents;

3. Negotiate, prepare, and enter into, on such forms as may be acceptable to the County and with firms experienced in the construction and installation of public sewerage systems, all contracts required in connection with the construction and installation of the portion of the Sewage Collection Facilities necessary or convenient to serve such tract or parcel;
4. Secure, on behalf of itself, the County, the Village, and all other necessary Parties, all permits, approvals, and authorizations that may be necessary or appropriate to construct, install, and operate the portion of the Sewage Collection Facilities necessary or convenient to serve such tract or parcel;
5. Submit to the County, for the County's review and approval, all preliminary and final engineering plans and specifications, all contract documents, and all permit applications for all portions of the Sewage Collection Facilities necessary or convenient to serve such tract or parcel;
6. Convey, or caused to be conveyed, to the County all right, title, and interest in all portions of the Sewage Collection Facilities necessary or convenient to serve such tract or parcel when such portions of such Facilities have been completed in accordance with the requirements of this Agreement and have been approved by the County as being in full compliance with this Agreement, all applicable contracts, plans, and specifications, the County Sewer Ordinances, and all other requirements of law; and
7. Perform all other activities necessary or convenient in connection with the design, construction, installation, and placing into service of all portions of the Sewage Collection Facilities necessary or convenient to serve such tract or parcel, including associated administrative activities.

Provided, however, that whenever this Section 3.1.A requires the acceptance or approval of the County, such acceptance or approval shall not be unreasonably delayed or denied. The County shall not deny any such request for acceptance or approval except in writing, for good cause, and based on specific grounds that are set forth in the written denial. In the event that the Village believes that any such denial is unreasonable and not supported by good cause, it may challenge such denial in the manner provided in Section 9.11 of this Agreement.

Exhibit E

B. County Obligations. Subject to the conditions and limitations set forth in Article V of this Agreement and to the other terms and conditions of this Agreement and subject, further, to all of its costs and expenses associated therewith being reimbursed by, or on behalf of, the owner, subdivider, developer, or redeveloper obligated to perform the work required pursuant to Section 3.1.A above, the County shall have the following obligations with respect to such work:

1. The obligation to approve, when completed in accordance with this Agreement, the County Sewer Ordinances, all other requirements of law, and sound engineering practices, all designs, all plans and specifications, all contract documents, and all easements, rights-of-way, licenses, and other property rights required to be prepared or supplied pursuant to Section 3.1.A above;
2. The obligation to execute, when completed in accordance with this Agreement, the County Sewer Ordinances, all other requirements of law, and sound engineering practices, all permit applications required to be filed pursuant to Section 3.1.A above, but only when the signature of the County is required by the permitting agency; and
3. The obligation to accept ownership of the Sewage Collection Facilities when, but only when, satisfied, in its sole and absolute discretion, that (i) the Sewage Collection Facilities, or such portions thereof, have been completed in accordance with the requirements of this Agreement and in full compliance with this Agreement, all plans and specifications, all contract documents, the County Sewer Ordinances, all other requirements of law, and sound engineering practices and (ii) all costs and expenses associated with the Sewage Collection Facilities, or the portions thereof to be accepted by the County, have been paid in full.

3.2 Payment and Guaranty of Costs.

The Village shall adopt and approve all ordinances, regulations, and agreements necessary, and take all other action necessary, to require the owner, subdivider, developer, or redeveloper of any tract or parcel in the Mundelein Service Area, in connection with the development or redevelopment of such tract or parcel and as a condition to receiving (i) any subdivision, planned development, or other development or redevelopment approval for such tract or parcel from the Village or (ii) Sanitary Sewer Service for such tract or parcel from the

Exhibit E

County Sewerage System, to pay, or cause to be paid, the full Sewage Collection Facilities Cost for all portions of the Sewage Collection Facilities necessary or convenient to serve such tract or parcel. In addition, the Village shall, as a condition to granting any subdivision, planned development, other development, or redevelopment approval for any tract or parcel within the Mundelein Service Area seeking permission to connect to the County Sewerage System require the owner, subdivider, developer, or redeveloper seeking such approval to deposit with the County an irrevocable letter of credit, in a form satisfactory to the County and with a bank approved by the County, in the amount of 130 percent of the construction costs associated with the aforesaid installation, which letter of credit shall be so conditioned, to the satisfaction of the County, as to ensure completion of those portions of the Sewage Collection Facilities necessary or convenient to serve such tract or parcel.

ARTICLE IV

SERVICE

4.1 County Obligations.

The County shall, subject to the conditions precedent and limitations set forth in Article V of this Agreement, and to the other terms and conditions of this Agreement, use its best efforts to operate and maintain the County Sewerage System in accordance with its customary practices and sound engineering practices. Use of the County Sewerage System shall be governed by the County Sewer Ordinances and this Agreement.

4.2 Village Obligations.

Provided that the County has the available capacity to provide Sanitary Sewer Service as provided herein, the Village shall not, at any time during the term of this Agreement, (i) offer, authorize, or permit any sanitary sewer service within the Mundelein Service Area other than such service as is delivered by and through the County Sewerage System; (ii) construct, cause, permit, or consent to the construction of, any sanitary sewers or treatment facilities, other than new County Diamond-Sylvan Lake Interceptors or New Sewage Collection Facilities

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necessary or convenient to serve a tract or parcel within the Mundelein Service Area, as provided herein; or (iii) deliver Sewage from the Mundelein Service Area to any sanitary sewer or treatment facility other than the New Century Town Plant without, in each such case, the prior written consent of the County.

4.3 **Other Agreements and Laws.**

Nothing in this Agreement shall be construed or interpreted as a waiver by the County of its rights under any other agreement or law governing the County's right to provide exclusive Sanitary Sewer Service within any portion of the County, including the Mundelein Service Area, to the extent that such service is not provided by other governmental or non-governmental entities.

ARTICLE V

CONDITIONS AND LIMITATIONS

5.1 **Conditions Beyond County or Village Control.**

The County or Village shall not be responsible for any failure to perform the undertakings, obligations, and commitments assumed by each of them, respectively, pursuant to this Agreement caused by a Force Majeure.

5.2 **Conditions Precedent to County Service.**

Notwithstanding any other provision of this Agreement, the right of any Customer located within each of said portions of the Mundelein Service Area to receive Sanitary Sewer Service from the County pursuant to this Agreement, and the County's obligation to provide Sanitary Sewer Service to any customer located within each of said portions of the Mundelein Service Area, shall be subject to all of the following conditions precedent having first been satisfied:

- i. Receipt by the County of all necessary governmental approvals to construct and operate all of the components of the County Sewerage System as may be necessary to provide Sanitary Sewer Service to the Mundelein Service Area, or the portion of such Service Area for which such Services are being sought,

Exhibit E

pursuant to this Agreement.

- ii. Receipt by the County, on terms and by documents reasonably satisfactory to the County, of any and all easements, licenses, and permits, whether across private property, Village property, or other public property, including public streets, that the County determines in its sole discretion are necessary for the construction, installation, operation, maintenance, repair, removal, or replacement of the County Diamond-Sylvan Lake Interceptors, and the Sewerage Collection Facilities necessary or convenient to serve a tract or parcel within the Mundelein Service Area, or the portions of either to be placed in service.
- iii. Payment of the then applicable County Connection Charge(s), as provided in Section 6.1 and 6.2 hereafter.
- iv. After the total flows from that portion of the Mundelein Service Area (approximately 19.88 acres) depicted on Exhibit B attached to and made a part hereof equal or exceed 298 P.E., no additional Customers shall be connected to the County Diamond-Sylvan Lake Interceptors from said 19.88 acres without an amendment to this Agreement as provided in Section 9.3 hereof.
- v. After the total flows from that portion of the Mundelein Service Area (approximately 35.91 acres) as depicted on Exhibit B attached to and made a part hereof equal or exceed 569.5 P.E. (i.e. the amount of P.E. presently permitted within said 35.91 acres), no additional Customers shall be connected to the County Diamond-Sylvan Lake Interceptors from said 35.91 acres without an amendment to this Agreement as provided in Section 9.3 hereof.
- vi. The ability of the County to provide Sanitary Sewer Service as required by this Agreement without violating any applicable laws or regulations.
- vii. All other terms and conditions of this Agreement.

5.3 Limitations on County Service.

Notwithstanding any other provision of this Agreement, the right of any Customer located within each of said portions of the Mundelein Service Area to receive Sanitary Sewer Service from the County, and the County's obligation to provide Sanitary Sewer Service to any Customer within each of said portions of the Mundelein Service Area, shall be subject to the following limitations:

- i. The total amount of Sewage delivered to the County Sewerage

Exhibit E

System from Customers located within said 19.88 acres of the Mundelein Service Area, as depicted on Exhibit B attached hereto and made a part hereof; shall not exceed 298 P.E. without an amendment to this Agreement as provided in Section 9.3 hereof.

- ii. The total amount of Sewage delivered to the County Sewerage System from Customers located within said 35.91 acres of the Mundelein Service Area, as depicted on Exhibit B attached hereto and made a part hereof, shall not exceed 569.5 P.E. without an Amendment to this Agreement as provided in Section 9.3 hereof.
- iii. The point of connections between the Sewage Collection Facilities necessary or convenient to serve a tract or parcel within the Mundelein Service Area and the Diamond-Sylvan Lake Interceptors shall be made at locations approved by the County, but the precise number, size, and location of such connections shall be determined by the County, after consultation with the Village and consideration of the Village comprehensive plan and other Village ordinances, in accordance with sound engineering practices.
- iv. The Sanitary Sewer Service to be provided by the County pursuant to this Agreement shall be on a first come-first serve basis and within the limits of available capacity.
- v. The Sanitary Sewer Service to be provided by the County pursuant to this Agreement shall be subject to the County Sewer Ordinance and all other applicable laws, ordinances, rules, and regulations, including any Pretreatment standards.
- vi. The Sanitary Sewer Service to be provided by the County pursuant to this Agreement shall be subject to all other terms and conditions of this Agreement.

ARTICLE VI

CHARGES AND FEES

6.1 Service Conditioned on Payment.

Notwithstanding any other provision of this Agreement, the County shall have no obligation to provide Sanitary Sewer Service to any Customer located within the Mundelein Service Area unless all Connection Charges and all Sewer User Fees required by the County for such Services have been paid.

6.2 Connection Charges.

- A. County Obligations. Every Customer located within the Mundelein

Exhibit E

Service Area connecting, either directly or indirectly, to the County Sewerage System shall pay to the County a Connection Charge, as set in the County Rate Ordinance, at the current rate as the County from time-to-time charges for similar Sanitary Sewer Service provided by the County through the County Sewerage System. The County shall be solely responsible for setting, billing, and collecting all such Connection Charges and issuing the County sewer permit.

B. Village Obligations. The Village shall be responsible for ensuring a County sewer permit has been issued prior to issuing the Village building permit.

6.3 Sewer User Fees.

A. Payment of Sewer User Fees. The County shall issue bills for and shall be entitled to payment of, and every Customer shall pay to the County, Sewer User Fees based upon the actual volume, strength, and composition of Sewage delivered to the County Sewerage System from such Customer. The County shall be solely responsible for setting, billing, and collecting all such Sewer User Fees.

B. Level of Sewer User Fees. Sewer User Fees shall be uniform for all Customers receiving similar service and shall be as set in the County Rate Ordinance.

C. Nonpayment of Sewer User Fees. The Village agrees to temporarily terminate water service for any Customer located on a tract or parcel in the Mundelein Service Area upon written notice from the County regarding failure of such Customer to comply with the County Rate Ordinance regarding payment of Sewer User Fees for such tract or parcel. The County agrees to provide said notice to both the Customer in question as well as the Village and allow thirty (30) days before issuing an additional notice to the Customer and Village requesting said termination.

D. Indemnification. The County agrees to fully indemnify, save harmless and defend the Village against all claims, causes of action, suits, damages, or demands that may arise, or be alleged to have arisen, out of or in connection with the Village temporarily terminating water service to any customer upon written notice from the County regarding such

Exhibit E

Customer's failure to comply with the County Rate Ordinance regarding the payment of Sewer User Fees.

6.4 **Metering.**

The County shall have the right to establish and enforce reasonable requirements for all Customers located within the Mundelein Service Area regarding the installation, calibration, inspection, maintenance, repair, and replacement of meters to measure each Customer's water use for the purpose of establishing and billing Sewer User Fees. Notwithstanding the above provision, the County agrees that any water meter used by the Village to charge such Customer for water service shall be acceptable to the County for the purpose of Charging Sewer User Fees. For such Customers, The Village agrees to provide water meter readings to the County no later than fifteen (15) days after the readings are collected. Nothing in this Section 6.4 shall be deemed to limit the County's right to estimate any Customer's water consumption for the purpose of establishing and billing Sewer User Fees to the extent that actual water meter readings are not available.

ARTICLE VII

OWNERSHIP AND MAINTENANCE

The County shall be the sole owner of, and shall have the duty to maintain, the County Sewerage System. After the Sewage Collection Facilities necessary or convenient to serve a tract or parcel within the Mundelein Service Area, or any portion of such Facilities, has been conveyed to, and accepted and placed in service by the County pursuant to Article III of this Agreement, the County shall be the sole owner of, and shall have the duty to maintain, such portions thereof as part of the County Sewerage System. Nothing in this Agreement shall be construed to give the Village, or any other person or entity, except the County, any ownership or other interest in any part of the County Sewerage System.

ARTICLE VIII

OTHER CONTRACTS AND SERVICE

8.1 County Rights.

The County shall have the right to contract with other persons, natural or corporate, private or public, to perform services similar to those to be performed pursuant to this Agreement; provided, however, that nothing in this Agreement shall be construed to require the County to provide Sanitary Sewer Service to any area of the Village other than to the area located in the Mundelein Service Area, which service shall be subject to the conditions and limitations of this Agreement.

8.2 Future Annexations by Village.

Except as expressly provided otherwise in this Agreement, this Agreement shall not be modified, changed, altered, amended or terminated without the written and duly authorized consent of the County and the Village. Notwithstanding anything to the contrary herein, the County shall not unreasonably withhold its consent to amending this Agreement to provide for sanitary sewer service to properties in the area annexed by the Village in the future, upon receiving a request for such service by the Village, which amendment shall allow for the development or redevelopment of such properties in conformity with the Village's Comprehensive Plan, as amended from time to time, and provided further that the County has available capacity to accommodate the P.E.s generated from such properties. The Village acknowledges that the County reviews any amendment requests hereunder utilizing its April 5, 2005 Resolution entitled 'Considerations and Principles relating to Intergovernmental Agreements for Sewer and Amendments to Existing Agreements' which is attached hereto as Exhibit C. Amendments may be recorded by either party with the Lake County Recorder's Office once executed by both Parties.

8.3 Village Acknowledgements.

The Village acknowledges and agrees that: (i) the County does not act or

Exhibit E

operate as a public or private utility; (ii) the County does not act or operate in a business or proprietary capacity in providing Sanitary Sewer Service to the Mundelein Service Area; (iii) the County does not by this Agreement, or its performance pursuant to this Agreement, hold itself out as offering to, and is under no obligation to, provide Sanitary Sewer Service to any tract, parcel, or area other than tracts, parcels, or areas located within the Mundelein Service Area, as it presently exists, or as it may be increased in size through future annexations as provided in Section 8.2 hereof, and (iv) the County is under no obligation to provide Sanitary Sewer Service to any area of the Village other than the Mundelein Service Area.

8.4 **Other County Service.**

Nothing in this Agreement shall be construed or interpreted to prevent or limit the right of the County, or to require the consent of the Village, to provide Sanitary Sewer Service to Customers outside the Mundelein Service Area on such terms and conditions as the County may, in its sole discretion, determine to be appropriate, including without limitation, Sanitary Sewer Service utilizing the County Sewerage System; provided, however, that the County shall not provide Sanitary Sewer Service within the Mundelein Service Area, as it presently exists or as it may be increased in size through future annexations as provided in Section 8.2 hereof, except in accordance with the terms and conditions of this Agreement; and, provided further, the County shall not provide Sanitary Sewer Service within the corporate limits of the Village outside the Mundelein Service Area, as it presently exists or as it may be increased in size through further annexations as provided in Section 8.2 hereof, without the express prior written and duly authorized consent of the Village.

8.5 **No Third Party Beneficiaries.**

Nothing in this Agreement shall create, or be construed or interpreted to create, any third Party beneficiary rights.

8.6 **Water Service.**

This Agreement does not pertain to public water supply service, except as

Exhibit E

otherwise noted, within the Village and shall not affect the rights or obligations of either the County or the Village with respect to such water supply service within the Village.

ARTICLE IX

LEGAL RELATIONSHIPS AND REQUIREMENTS

9.1 **Exhibits.**

Exhibits A, B and C attached to this Agreement are, by this reference, incorporated into and made a part of this Agreement.

9.2 **Entire Agreement.**

Except for the Intergovernmental Agreement executed by the Parties contemporaneously herewith, there are no representations, covenants, promises, or obligations not contained in this Agreement that form any part of this Agreement or upon which either of the Parties is relying in entering into this Agreement. This Agreement and the Intergovernmental Agreement constitute the entire agreement between the Parties and supersedes any and all prior agreements and negotiations between the Parties, whether written or oral, relating to the subject matter of this Agreement and the Intergovernmental Agreement.

9.3 **Amendments.**

Except as expressly provided otherwise in this Agreement, this Agreement shall not be modified, changed, altered, amended, or terminated without the written and duly authorized consent of the County and the Village. Notwithstanding anything to the contrary herein, the County shall not unreasonably withhold its consent to amending this Agreement to increase the maximums P.E.'s generated in each portion of the Mundelein Service Area as depicted on Exhibit B hereof respectfully, in the event the Village requests such an increase and provided that such increase allows for the development or redevelopment of properties in such areas in conformity with the Village's Comprehensive Plan, as amended from time to time, and provided further that the County has available capacity to accommodate such increase in

Exhibit E

P.E.'s generated from such areas. The Village acknowledges that the County reviews any amendment requests hereunder utilizing its April 5, 2005 Resolution entitled "Considerations and Principles relating to Intergovernmental Agreements for Sewer and Amendments to Existing Agreements" which is attached hereto as Exhibit C. Amendments may be recorded by either Party with the Lake County Recorder's Office once executed by both Parties.

9.4 **Waivers.**

No term or condition of this Agreement shall be deemed waived by either Party unless the term or condition to be waived and the circumstances giving rise to such waiver are set forth specifically in a duly authorized and written waiver of such Party. No waiver by any Party of any term or condition of this Agreement shall be deemed or construed as a waiver of any other term or condition of this Agreement, nor shall the waiver of any breach be deemed to constitute a waiver of any subsequent breach whether of the same or different provisions of this Agreement.

9.5 **Severability.**

It is the intent of the County and the Village that this Agreement be construed and interpreted so as to preserve its validity and enforceability as a whole. In case of any conflict among the provisions of this Agreement, the provision that best promotes and reflects the intent of the Parties shall control. If any provision of this Agreement is construed or held to be void, invalid, or unenforceable in any respect, the remaining provisions of this Agreement shall not be affected thereby but shall remain in full force and effect.

9.6 **Regulatory Bodies.**

This Agreement shall be subject to all valid rules, regulations, and laws applicable hereto passed and promulgated by the United States of America, the State of Illinois, or any other governmental body or agency having lawful jurisdiction, or any authorized representative or agent of any of them; provided, however, that this Section 9.6 shall not be construed as waiving the right of any Party to challenge the validity of any such rules,

regulations, or laws on any basis, including the impairment of this Agreement. The County reserves the right to adopt ordinances, rules, and regulations governing the design, installation, and use of the County Sewerage System.

9.7 **Successors; Assignment.**

This Agreement shall be binding on, and shall inure to the benefit of the successors and permitted assigns of the County and the Village. The Village and County shall not assign this Agreement in whole or in part, or any of its rights or obligations under this Agreement, without the prior express written consent of the other Party, which consent may be withheld in their sole and unfettered discretion.

9.8 **Effective Date and Term.**

A. **Effective Date.** This Agreement shall take effect as of the date first above written when executed by the duly authorized representatives of the County and the Village.

B. **Term.** This Agreement shall be in full force and effect for a period of 30 years from and after its Effective Date.

9.9 **Notices.**

All notices and other communications in connection with this Agreement shall be in writing and shall be deemed delivered to the addressee thereof when delivered in person or by express mail or messenger at the address set forth below or three business days after deposit thereof in any main or branch United States post office, certified or registered mail, return receipt requested, postage prepaid, properly addressed to the Parties, respectively, as follows:

For notices and communications to the County:

County of Lake
18 North County Street
Waukegan, Illinois 60065
Attn: County Administrator

Exhibit E

and

Lake County Department of Public Works
650 Winchester Road
Libertyville, Illinois 60048
Attn: Director

For notices and communications to the Village:

Village of Mundelein
440 East Hawley Street
Mundelein, Illinois 60060
Attn: Village Administrator

By notice complying with the foregoing requirements of this Section 9.9, each Party shall have the right to change the addressees or addresses or both for all future notices and communications to such Party, but no notice of a change of address shall be effective until actually received.

9.10 **Execution in Counterparts.**

This Agreement may be executed in multiple identical counterparts, and all of said counterparts shall, individually and taken together, constitute one and the same Agreement.

9.11 **Enforcement.**

The Parties hereto may in law or in equity enforce or compel the performance of this Agreement and shall otherwise have all remedies provided by applicable United States of America, State of Illinois, and local laws, ordinances, rules, and regulations, except that neither the Village nor the County shall seek or recover monetary damages against the other or any of the other's officials, agents, representatives, attorneys, or employees on account of the negotiation, execution, or breach of any of the terms and conditions of this Agreement.

IN WITNESS WHEREOF, the County and the Village have, by their duly authorized officers, set their hands and affixed their seals on the date first above written.

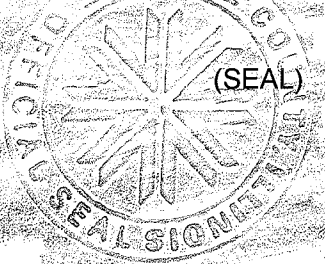
COUNTY OF LAKE

BY: _____

Chairman, Lake County Board

ATTEST:

William R. Harder
County Clerk

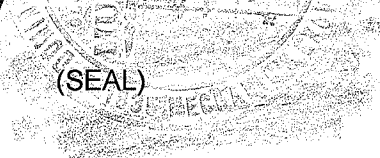


VILLAGE OF MUNDELEIN

Mayor

ATTEST:

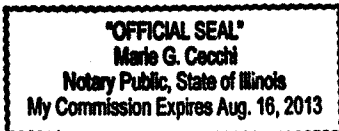
Amir M. Oltor
Village Clerk



COUNTY OF LAKE)
)SS
STATE OF ILLINOIS)

I, the undersigned, a Notary Public, in and for the County and State aforesaid, do hereby certify that KENNETH H. KESSLER Mayor and ESMIE DAHLSTROM Village Clerk personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that they signed, sealed and delivered, said instrument as, their free and voluntary act for uses and purposes therein set forth.

Given under my hand and official seal, this 14TH day of JUNE, 2011.

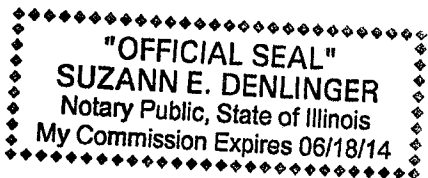


Marie G. Cecchi
Notary Public

COUNTY OF LAKE)
)SS
STATE OF ILLINOIS)

I, the undersigned, a Notary Public, in and for the County and State aforesaid, do hereby certify that David Stolman County Board Chairman and Willard Helander County Clerk personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that they signed, sealed and delivered, said instrument as, their free and voluntary act for uses and purposes therein set forth.

Given under my hand and official seal, this 26th day of June, 2011



Suzann E. Denlinger
Notary Public

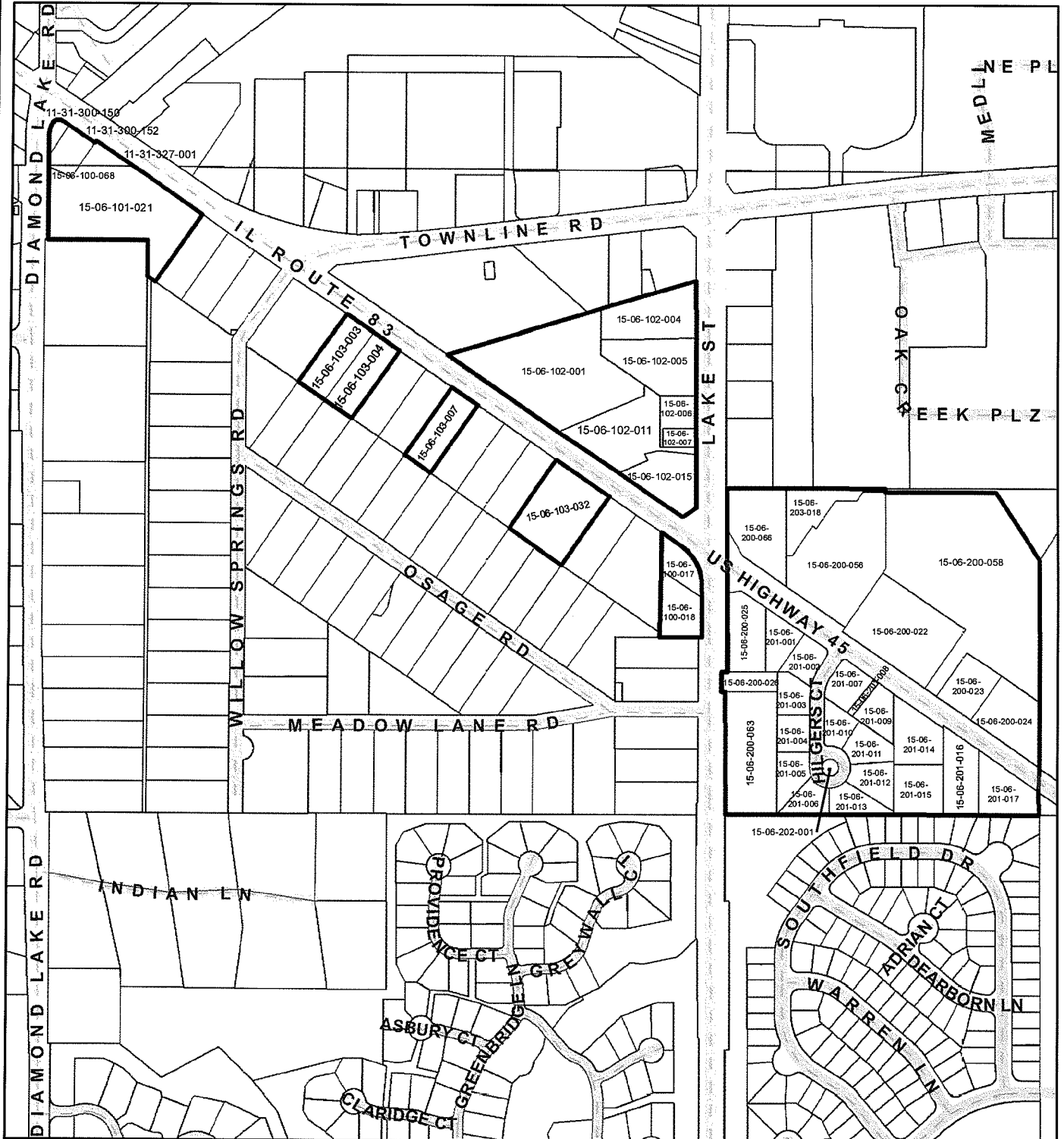
Exhibit E

EXHIBIT A

Map of Mundelein Service Area presently comprising 55.79 Acres of Property
with the following PINs:

11-31-300-150
11-31-300-152
11-31-327-001
15-06-100-017
15-06-100-018
15-06-100-068
15-06-101-021
15-06-102-001
15-06-102-004
15-06-102-005
15-06-102-006
15-06-102-007
15-06-102-011
15-06-102-015
15-06-103-003
15-06-103-004
15-06-103-007
15-06-103-032
15-06-200-022
15-06-200-023
15-06-200-024
15-06-200-025
15-06-200-026
15-06-200-056
15-06-200-058
15-06-200-063
15-06-200-066
15-06-201-001
15-06-201-002
15-06-201-003
15-06-201-004
15-06-201-005
15-06-201-006
15-06-201-007
15-06-201-008
15-06-201-009
15-06-201-010
15-06-201-011
15-06-201-012
15-06-201-013
15-06-201-014
15-06-201-015
15-06-201-016
15-06-201-017
15-06-202-001
15-06-203-018

Exhibit A Mundelein Service Area



LakeCounty
 Department of Public Works
 650 West Winchester Road
 Libertyville, Illinois 60048
 (847) 377-7500
 (847) 377-7173 FAX

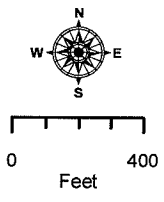
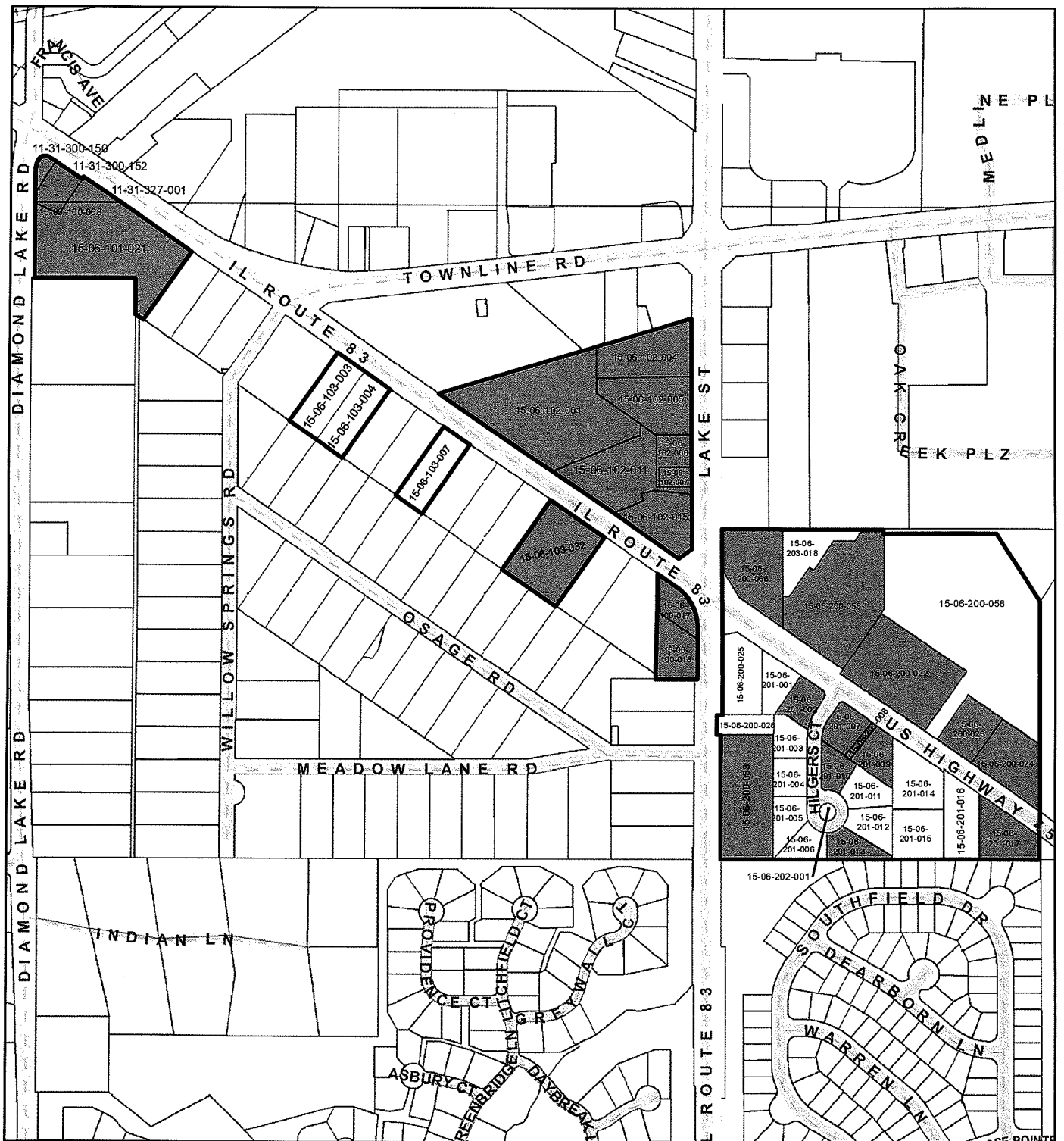


Exhibit E

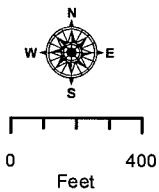
EXHIBIT B

Map of 35.91 Acres of Improved Property within the Mundelein Service Area
Presently being provided Sanitary Sewer Service by the County of Lake and
19.88 Acres of Property within the Mundelein Service Area to be provided Sanitary Sewer
Service in the future by Lake County at request by the Village of Mundelein

Exhibit B Mundelein Service Area



 **LakeCounty**
 Department of Public Works
 650 West Winchester Road
 Libertyville, Illinois 60048
 (847) 377-7500
 (847) 377-7173 FAX



- Legend**
-  Proposed Village Service Area
 -  Currently Served Village Parcels (35.91 ac)
 -  Unimproved Village Parcels (19.88 ac)

April, 2011
1904

Exhibit E

EXHIBIT C

County Resolution dated April 5, 2005 and entitled "Considerations and Principles relating to Intergovernmental Agreements for Sewer and Amendments to Existing Agreements"

Exhibit E
Exhibit C
RESOLUTION

WHEREAS, the County of Lake (County) owns and operates local and regional sanitary sewer systems in various parts of the County; and

WHEREAS, the County has entered into intergovernmental agreements and amendments to agreements for sewer service with several municipalities and government agencies in the County; and

WHEREAS, in making decisions relating to sewer service, the County should evaluate the effects from a policy and practical perspective; and

WHEREAS, the County has authorized the Public Works & Transportation Committee to review and evaluate requests for sewer service; and

WHEREAS, in order to most effectively and efficiently evaluate and make decisions relating to sewer service, it would be appropriate and prudent for the Public Works & Transportation Committee to establish principles and factors to be assessed when evaluating sewer service decisions; and

WHEREAS, the Public Works & Transportation Committee has established the attached policies, "Considerations and Principles Relating to Intergovernmental Agreements for Sewer and Amendments to Existing Agreements", which are hereby adopted and may be revised from time-to-time; and

WHEREAS, it is appropriate for the Public Works & Transportation Committee to adopt the "Considerations and Principles Relating to Intergovernmental Agreements for Sewer and Amendments to Existing Agreements".

NOW, THEREFORE BE IT RESOLVED, that the Public Works and Transportation Committee approves this resolution adopting a sewer policy, "Considerations and Principles Relating to Intergovernmental Agreements for Sewer and Amendments to Existing Agreements", in the substantial form contained herein.

Aye Nay

Diana O'Kelly ✓
CHAIR

VICE CHAIR

[Signature] ✓

Ann B. Maine ✓

[Signature] ✓

Michael A. Caltch ✓

PUBLIC WORKS AND TRANSPORTATION COMMITTEE

MEETING OF APRIL 5, 2005

**CONSIDERATIONS AND PRINCIPLES RELATING TO
INTERGOVERNMENTAL AGREEMENTS FOR SEWER
AND AMENDMENTS TO EXISTING AGREEMENTS**

1. Premises:

- a. The County is a regional government.
- b. County decisions often have regional effects that should be evaluated.
- c. In addition, as the primary regional government in Lake County, the County has a special responsibility to encourage intergovernmental cooperation.

2. Decision-Making Process:

- a. In order to give appropriate consideration to intergovernmental impacts of decisions, the external effects of decisions should be thoroughly evaluated through consultation with affected or potentially affected governmental units, agencies, and departments.
- b. Decisions should be made with due consideration to the objectives of the County's Framework Plan.
- c. Decisions should also be made giving due consideration to the direct and indirect effects of such decisions, including the totality of the benefits and impacts of the decision on affected governmental units, agencies, and departments.
- d. Ultimately, the County as a regional government must exercise its legislative discretion in determining what it believes is best for the County and its residents as a whole.

3. Factors to Be Assessed Relating to Sewer Service Decisions:

- a. The County is not a public utility, but it provides certain public services with the goal of enhancing the well being of all Lake County residents. This goal is ordinarily achieved through the use of regional publicly owned wastewater treatment facilities.
- b. In making decisions related to sewer service, the County should evaluate both direct and indirect effects from both a policy and practical perspective. Those effects may include without limitation:

• Consistency with the Framework Plan	• Impact on other affected public bodies
• Consistency with relevant municipal plans	• Fiscal and related benefits
• Available and committed capacity of system	• Level of support/opposition to proposal
• Impact on County roads and other services	• Specific environmental concerns

- c. Coordination of concerns of affected governments is important to achieve appropriate planning and wise investment of public resources. This is increasingly important as development spreads throughout the County and actions of one community are more likely to affect other communities.

- d. To better ensure that decisions are made based on understandable parameters, sewer service agreements and amendments to such agreements should ordinarily be based on specific limitations on the County's obligations to provide such services. Those limitations should be expressed in terms of capacity and, when appropriate, the nature of the development to be served. In addition, amendments to existing sewer service agreements should ordinarily be considered in the context of specific developments to be served.
- e. Although past practices are important, the considerations and effects of sewer decisions are ever-evolving and cannot be made based on static models of precedent.