

**AGREEMENT FOR RETAIL SANITARY SEWER AND RETAIL WATER SUPPLY
SERVICES TO THE VILLAGE OF THIRD LAKE**

Entered Into By and Between

The County of Lake

and

The Village of Third Lake

As of

December 17, 2012

**AGREEMENT FOR RETAIL SANITARY SEWER AND RETAIL WATER SUPPLY
SERVICES TO THE VILLAGE OF THIRD LAKE**

THIS AGREEMENT is dated as of this 17 day of December, 2012, 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 THIRD LAKE, an Illinois municipal corporation, hereinafter referred to as the "Village."

RECITALS

WHEREAS, 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 and the provision of safe and sufficient public water supplies; and

WHEREAS, 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 and water supply services to designated areas of the County, including portions of the Northeast Central Lake Facilities Planning Area established pursuant to the Illinois Water Quality Management Plan, and has prepared plans and programs for providing such services and the related facilities; and

WHEREAS, pursuant to such plans and programs, the County has constructed, owns, and operates a public water system and a system of interceptor sanitary sewers in the Northeast Central Lake Facilities Planning Area to provide water service and sanitary sewer service to certain areas within the aforementioned facilities planning area. The County has also entered into an agreement with the North Shore Sanitary District ("NSSD") whereby the NSSD performs the function of sewage treatment for the County in the Northeast Central Regional Area subject to certain fees and conditions as outlined in the agreement between the NSSD and the County; and.

WHEREAS, in order to address their respective needs and objectives and to protect the health safety, and welfare of the residents of the County, including the residents of the Village, the County and the Village entered into: (i) an intergovernmental agreement for retail sewage collection and transport service to certain areas within the Village and within the Northeast Central Lake FPA on or about April 20, 1976, as amended twice on July 10, 1979 and September 7, 2004 (the "1976 Retail Sewer Agreement"); and (ii) an intergovernmental agreement for retail water service to certain areas within the Village on or about July 10, 1979, as amended on September 7, 2004 (the "1979 Retail Water Agreement"); and

WHEREAS, the 1976 Retail Sewer Agreement and the 1979 Retail Water Agreement have expired, and the County and the Village wish to enter into a new agreement in order to update, extend and modify their respective public sanitary sewer collection/transport and public water supply obligations in Lake County; and

WHEREAS, subject to the terms, conditions, and limitations herein specified, the County and the Village desire to enter into this agreement to permit the Village to obtain sanitary sewer for the Village Retail Sewer Service Area and water supply services for the Village Retail Water Service Area from the County's sewer and water systems serving the Northeast Central Lake Facilities Planning Area.

WHEREAS, the County and the Village enter into this Agreement to promote and provide for the efficient and economic development and use of costly public infrastructure pursuant to sound and logical public plans so as to avoid wasteful duplication of public facilities.

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 20EC.

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 Northeast Central Interceptors or to any other provider of Transport or Treatment services.

2.3 Connection Charges.

The charges from time-to-time imposed by the County on Customers newly connecting to the County Northeast Central Sewerage System or the County Wildwood Waterworks Systems as a condition of such connections.

2.4 County Northeast Central Interceptors.

The system of Sanitary Sewer interceptors constructed or to be constructed in or near the Village and to be owned and operated by the County to receive Sewage from the Village Retail Sewage Collection Facilities and other Collection facilities in the Northeast Central Regional Area for delivery to the NSSD Treatment Plant.

2.5 County Northeast Central Sewerage System.

The County Northeast Central 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, Collecting and Transporting Sewage within the Northeast

Central Regional Area. In addition, upon the County's acceptance of ownership of the Village Retail Sewage Collection Facilities, or any portion of them, such Facilities, or such portion of them, shall become part of the County Northeast Central Sewerage System.

2.6 County Sewer and Water Ordinances.

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 Sewer Systems 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 by the County relating in any way to the County Northeast Central Sewerage System or to the Collection, Transport, Pretreatment, or Treatment of Sewage in the County and also any and all ordinances adopted by the County relating in any way to the use, operation, or management of the County Wildwood Waterworks System or to the provision of Water Supply Service.

2.7 County Wildwood Waterworks System.

All sources of water and related facilities; all connection points and related facilities; all treatment plants and related facilities; all pumping stations and related facilities; all elevated tanks, standpipes, ground storage reservoirs, and related facilities; all water transmission and distribution mains, service lines, hydrants, and related facilities; and all metering equipment and related facilities, as well as associated lands, easements, and rights-of-way, that the County, from time-to-time, owns or operates for the purpose of, or relating to, providing Water Supply Services in the Village Retail Water Service Area, or any part of it.

2.8 Customer.

Any dwelling, business, office, industrial, institutional, or other building, facility, or entity located in the Northeast Central Regional Area that discharges Sewage, either directly or indirectly, into the County Northeast Central Sewerage System or that

accepts water, either directly or indirectly, from the County Wildwood Waterworks System.

2.9 Effective Date.

The date on which this Agreement shall become effective pursuant to Subsection 10.8.A of this Agreement.

2.10 Force Majeure.

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

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.

2.13 Northeast Central Regional Area.

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

2.14 NSSD Treatment Plant.

The treatment plant in Gurnee owned or to be owned and operated by the North Shore Sanitary District to which the County Northeast Central Sewerage System and the County Northeast Central Interceptors are tributary, together with any associated facilities and additions to or extensions of such plant or of such facilities owned and operated by the NSSD.

2.15 Population Equivalent.

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 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 and Water Ordinances or applicable NSSD 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 industrial processes.

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 under the County Sewer and Water Ordinances.

2.22 **Sewer Connection Charges.**

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

2.23 Sewer User Fee.

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

2.24 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.

2.25 Transport.

The conveyance of Sewage from the point or points of discharge of the Village Retail Sewage Collection Facilities to the NSSD Treatment Plant or to any other provider of Treatment service.

2.26 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 and Water Ordinances or the Federal Clean Water Act, or of Pretreated Sewage, so as to meet regulatory requirements.

2.27 Village Retail Sewer Service Area.

Such portions of the area outlined and shaded on Exhibit A attached hereto that are also, from time-to-time, located within the corporate limits of the Village.

2.28 Village Retail Sewage Collection Facilities.

All Sanitary Sewers, lift stations, connection facilities, and related facilities, whether located within or outside the Village Retail Sewer Service Area, necessary to Collect Sewage from individual Customers located within the Village Retail Sewer Service Area and to deliver such Sewage to the County Northeast Central Interceptors in accordance with the County Sewer and Water Ordinances, all other applicable laws,

ordinances, and regulations, and sound engineering practices. The Village Retail Sewage Collection Facilities are to be dedicated to the County and to become part of the County Northeast Central Sewerage System as provided in Article III of this Agreement.

2.29 Village Retail Sewage Collection Facilities Cost.

The entire actual cost of designing, constructing, installing, and placing in operation the Village Retail Sewage Collection Facilities or a portion of such Facilities necessary or convenient to serve a particular property for which Sanitary Sewer Service is being sought.

2.30 Village Retail Water Service Area.

Such portions of the area outlined and shaded on Exhibit B attached hereto that are also, from time-to-time, located within the corporate limits of the Village.

2.31 Village Retail Water Supply Facilities.

All sources of water and related facilities; all connection points and related facilities; all treatment plants and related facilities; all pumping stations and related facilities; all elevated tanks, standpipes, ground storage reservoirs, and related facilities; all water transmission and distribution mains, service lines, hydrants, and related facilities; and all metering equipment and related facilities, as well as associated lands, easements, and rights-of-way, whether located within or without the Village Retail Water Service Area, necessary to secure and deliver a safe, sufficient, and reliable supply of potable water to Customers within the Village Retail Water Service Area in accordance with the County Sewer and Water Ordinances, all other applicable laws, ordinances, and regulations, and sound engineering practices. The Village Retail Water Supply Facilities are to be dedicated to the County and to become part of the County Wildwood Waterworks System as provided in Article III of this Agreement.

2.32 Village Retail Water Supply Facilities Cost.

The entire actual cost of designing, constructing, installing, and placing in operation the Village Retail Water Supply Facilities or a portion of such facilities necessary or convenient to serve a particular property for which Water Supply Service is

being sought.

2.33 Water Supply Service.

The delivery of water from the County Willdwood Waterworks System, or any other public or private water service, to Customers.

2.34 Water User Fee.

The standard rate charged by the County for the distribution and delivery of water of a specified volume.

ARTICLE III
CONSTRUCTION

3.1 **Village Retail Sewage Collection Facilities and Village Retail Water Supply 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, and developers of property in the Village Retail Sewer Service Area or Village Retail Water Service Area, as the case may be, in connection with the development of any such property and as a condition to receiving (i) any subdivision, planned development, or other development approval for such property from the Village or (ii) Sanitary Sewer or Water Supply Service for such property from the County Northeast Central Sewerage System or the County Wildwood Waterworks Systems, to design, construct, install, and dedicate to the County all portions of the Village Retail Sewage Collection Facilities and Village Retail Water Supply Facilities as necessary to serve such property in accordance with this Agreement, the County Sewer and Water Ordinances, all applicable NSSD 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 or developer of any property in the Village Retail Sewer Service Area or the Village Retail Water Service Area, as the case may be, as a condition to receiving (i) any subdivision, planned development, or other development approval for such property from the Village or (ii) Sanitary Sewer or Water Supply Service for such property from the County Northeast Central Sewerage System or the County Wildwood Waterworks Systems, to undertake, or cause to be undertaken, at least the following work relating to the Village Retail Sewage Collection Facilities and Village Retail Water Supply Facilities necessary or convenient to serve such property:

1. Obtain engineering services, from a firm acceptable to the County, for the design, plans and specifications, and construction of the Village Retail Sewage Collection Facilities and Village Retail Water Supply Facilities necessary or convenient to serve such property;

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 construct, install, operate, and maintain the Village Retail Sewage Collection Facilities and the Village Retail Water Supply Facilities necessary or convenient to serve such property, 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 acceptable to the County, all contracts necessary in connection with the construction and installation of the Village Retail Sewage Collection Facilities and the Village Retail Water Supply Facilities necessary or convenient to serve such property;
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 Village Retail Sewage Collection Facilities and the Village Retail Water Supply Facilities necessary or convenient to serve such property;
5. Submit to the County, for the County's review and approval, all preliminary and final engineering plans, drawings, and specifications, all contract documents, and all permit applications for all portions of the Village Retail Sewage Collection Facilities and the Village Retail Water Supply Facilities necessary or convenient to serve such property;
6. Convey, or caused to be conveyed, to the County all right, title, and interest in all portions of the Village Retail Sewage Collection Facilities and the Village Retail Water Supply Facilities necessary or convenient to serve such property as and when such Facilities, or portions of them, 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 and Water Ordinances, all applicable NSSD 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 Village Retail Sewage Collection Facilities and the Village Retail Water Supply Facilities necessary or convenient to serve such property, including associated administrative activities.

Such ordinances, regulations, and agreements shall provide for and require the orderly expansion of the County Northeast Central Sewerage System and the County Wildwood Waterworks System in accordance with the County Sewer and Water Ordinances, all applicable NSSD ordinances, all other requirements of law, and sound engineering

practices and shall, when necessary for such purpose, require appropriate oversizing of facilities and may, in connection with such oversizing, provide rights of recapture to the extent permitted by Illinois law. Such ordinances, regulations, and agreements shall further provide that the County shall have the following rights with respect to all work required pursuant to this Subsection 3.1A:

1. The right to review, comment on, and approve 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 this Subsection 3.1A;
2. The right to review, comment on, and approve all permit applications required to be filed pursuant to this Subsection 3.1A; and
3. The right to conduct such inspections of the work required to be performed pursuant to this Subsection 3.1A as the County may deem necessary or appropriate to protect its interests.

B. County Obligations. Subject to the conditions and limitations set forth in Article V 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, or developer obligated to perform the work required pursuant to Subsection 3.1A above, the County shall have the following obligations with respect such work:

1. The obligation to approve, when completed in accordance with this Agreement, the County Sewer and Water Ordinances, all applicable NSSD 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 Subsection 3.1A above;
2. The obligation to execute, when completed in accordance with this Agreement, the County Sewer and Water Ordinances, all applicable NSSD ordinances, all other requirements of law, and sound engineering practices, all permit applications required to be filed pursuant to Subsection 3.1A above, but only when the signature of the County is required by the permitting agency; and
3. The obligation to accept ownership of the Village Retail Sewage Collection

Facilities and the Village Retail Water Supply Facilities, or portions of them, when, but only when, satisfied, in its sole and absolute discretion, that (a) the Village Retail Sewage Collection Facilities and the Village Retail Water Supply Facilities, or portions of them, have been completed in accordance with the requirements of this Agreement and are in full compliance with this Agreement, all plans and specifications, all contract documents, the County Sewer and Water Ordinances, all applicable NSSD ordinances, all other requirements of law, and sound engineering practices and (b) all Village Retail Sewage Collection Facilities Costs and the Village Retail Water Supply Facilities Costs, or the portion of them 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, or developer of any property in the Village Retail Sewer Service Area and the Village Retail Water Service Area, in connection with the development of such property and as a condition to receiving (i) any subdivision, planned development, or other development approval for such property from the Village or (ii) Sanitary Sewer or Water Supply Service for such property from the County Northeast Central Sewerage System or the County Wildwood Waterworks Systems, to pay, or cause to be paid, the full Village Retail Sewage Collection Facilities Cost and the full Village Retail Water Supply Facilities Cost for all portions of the Village Retail Sewage Collection Facilities and the Village Retail Water Supply Facilities necessary or convenient to serve such property. In addition, the Village shall, as a condition to granting any subdivision, planned development, or other development approval for any property within the Village Retail Sewer Service Area or the Village Retail Water Service Areas seeking permission to connect to the County Northeast Central Sewerage System or the County Wildwood Waterworks Systems, require the owner, subdivider, or developer seeking such approval to deposit with the Village or with the County a 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 aforesaid Village Retail Sewage Collection Facilities Cost and Village Retail Water Supply Facilities Costs, which letter of credit shall be so conditioned, to the satisfaction of the County, as to ensure completion of those portions of the Village Retail Sewage Collection Facilities and the Village Retail Water Supply Facilities necessary or convenient to serve such property.

ARTICLE IV

SANITARY SEWER AND WATER SUPPLY SERVICE

4.1 County Obligations.

A. Operation and Maintenance.

After the Village Retail Sewage Collection Facilities and the Village Retail Water Supply Facilities, or any portion of them, have been conveyed to, and accepted and placed in service by, the County pursuant to Section 3.1 of this Agreement, 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 Northeast Central Sewerage and the County Wildwood Waterworks Systems, or the portions of such Systems that have been placed in service pursuant to Article III of this Agreement, in accordance with its customary practices and good engineering practices. Use of the County Northeast Central Sewerage and the County Wildwood Waterworks Systems shall be governed by the County Sewer and Water Ordinances, and this Agreement.

4.2 Village Obligations.

Except as provided in Section 4.3 of this Agreement, the Village shall not, at any time during the term of this Agreement, (i) offer, authorize, or permit any Sanitary Sewer within the Village Retail Sewer Service Area or Water Supply Service within the Village Retail Water Service Area other than such Service that is delivered by the County by and through the County Northeast Central Sewerage System and the County Wildwood Waterworks System; (ii) construct, or cause, permit, or consent to the construction of, any Sanitary Sewers or Treatment facilities (other than the County Northeast Central Sewerage System) or any facilities designed or intended to provide Water Supply Service (other than the County Wildwood Waterworks System) within the Village Retail Sewer Service Area and the Village Retail Water Service Area, respectively; (iii) deliver Sewage from the Village Retail Sewer Service Area to any Sanitary Sewer or Treatment facility other than the County Northeast Central Sewerage System; or (iv) accept Water Supply Service to the Village Retail Water Service Area from any waterworks system other than the County Wildwood Waterworks System without, in each such case, the prior written consent of the County, such consent not to be unreasonably withheld.

4.3 Septic Systems. A septic system serving not more than one detached single family dwelling on a lot of not less than 40,000 square feet in area shall not be considered to be a Treatment facility for purposes of Section 4.2.

4.4 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 or Water Supply Services within any portion of the County, including the Village Retail Sewer Service Area and the Village Retail Water Service Area.

ARTICLE V

CONDITIONS OF, AND LIMITATIONS ON, COUNTY PERFORMANCE

5.1 Conditions Beyond County's Control.

The County shall not be responsible for any failure to perform the undertakings, obligations, and commitments assumed by it pursuant to this Agreement caused by a Force Majeure.

5.2 Conditions Precedent to County Performance.

Notwithstanding any other provision of this Agreement, the right of the Village or any Customer located within the Village Retail Sewer Area to receive Sanitary Sewer and the right of the Village or any Customer located within the Village Retail Water Service Area to receive Water Supply Services from the County pursuant to this Agreement, and the County's obligation to provide Sanitary Sewer within the Village Retail Sewer Service Area and Water Supply Services within the Village Retail Water Service Area, shall be subject to all of the following conditions precedent having first been satisfied:

1. Receipt by the County, at no expense to the County, of all necessary governmental approvals to operate all of the components of the County Northeast Central Sewerage System and the County Wildwood Waterworks System as may be necessary to provide Sanitary Sewer to the Village Retail Sewer Service Area and Water Supply Service to the Village Retail Water Service Area, or the portion of such Service Areas for which such Services are being sought, pursuant to this Agreement.
2. Receipt by the County, at no expense to the County 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 any of the components of the County Northeast Central Sewerage System or the County Wildwood Waterworks System, or the portions of such Systems to be placed in service, and any facilities related thereto to be owned or maintained by the County.
3. Construction and dedication to the County, at no expense to the County, of all portions of the Village Retail Sewage Collection Facilities and Village Retail Water Supply Facilities necessary to provide the Sanitary Sewer or Water Supply

Services being sought.

4. Completion of all work required pursuant to Subsection 5.2(3) above:
 - (a) pursuant to applications, designs, plans, specifications, and contract documents reviewed and approved by the County, which approval shall not be unreasonably delayed or withheld;
 - (b) pursuant to permits issued by the County;
 - (c) in accordance with all applicable laws and regulations, including specifically, but without limitation, the County Sewer and Water Ordinances and all applicable NSSD ordinances;
 - (d) subject to inspection by the County to ensure compliance with the requirements of this Section 5.2 and with the other terms and conditions of this Agreement and the County Sewer and Water Ordinances; and
 - (e) in a manner acceptable to the County in accordance with sound engineering practices.
5. The ability of the County to provide Sanitary Sewer and Water Supply Services as required by this Agreement without violating any applicable laws or regulations.
6. The ability of the NSSD Treatment Plant to accept Sewage from the Village Retail Sewer Service Area for treatment and disposal in compliance with all applicable laws and regulations, and the legal right of the County to deliver said Sewage to the NSSD Treatment Plant for such purposes.
7. Available capacity.
8. Payment of all applicable Connection Charges.
9. All other terms and conditions of this Agreement.

5.3 Limitations on County Service.

Notwithstanding any other provision of this Agreement, the right of the Village or any Customer located within the Village Retail Sewer Service Area to receive Sanitary Sewer Service and the right of the Village or any Customer located within the Village Retail Water Service Area to receive Water Supply Service from the County, and the County's obligation to provide Sanitary Sewer Service within the Village Retail Sewer Service Area or Water Supply Service within the Village Retail Water Service Area, shall be subject to the following limitations and conditions:

1. The points of connection between the Village Retail Sewage Collection Facilities and the County Northeast Central Interceptors and between the Village Retail Water Supply Facilities and any portion of the County Wildwood Waterworks System shall, unless otherwise authorized in writing by the Director of the County Public Works Department, be made within the limits of the Village Retail Sewer Service Area or Village Retail Water Service Area, as the case may be, and the precise number, size, and location of such connections shall be determined by the County after consultation with the Village in accordance with sound engineering practices.
3. The Sewer and Water Services 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.
4. The Sanitary Sewer and Water Supply Services to be provided by the County pursuant to this Agreement shall be subject to the County Water and Sewer Ordinances, all applicable NSSD ordinances, and all other applicable laws, ordinances, rules, and regulations, including any Pretreatment standards.
5. The Sanitary Sewer and Water Supply Services to be provided by the County pursuant to this Agreement shall be subject to all other terms and conditions of this Agreement.

ARTICLE VI

COUNTY 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 or Water Supply Service to any Customer located within the Village Retail Sewer Service Area or the Village Retail Water Service Area unless all County Connection Charges and Sewer and Water User Fees required by the County for such Services have been paid.

6.2 Connection Charges.

A. Sanitary Sewer Connection Charges. Every Customer located within the Village Retail Sewer Service Area connecting, either directly or indirectly, to the County Northeast Central Sewerage System shall pay to the County a Connection Charge at the same rate as the County from time-to-time charges for similar Sanitary Sewer Services provided by the County within the Village Retail Sewer Service Area. The County shall be solely responsible for setting, billing, and collecting all Sanitary Sewer Connection Charges.

B. Water Supply Connection Charges. Every Customer located within the Village Retail Water Service Area connecting, either directly or indirectly, to the County Wildwood Waterworks System shall pay to the County a Connection Charge at the same rate as the County from time-to-time charges for similar Water Supply Services provided by the County through the County Wildwood Waterworks System. The County shall be solely responsible for setting, billing and collecting all Water Supply Connection Charges.

6.3 Sewer and Water User Fees.

A. Sewer User Fees. The County shall issue bills for and shall be entitled to payment of, and every Customer located within the Village Retail Sewer Service Area shall pay to the County, Sewer User Fees based upon the actual volume, strength, and composition of Sewage delivered to the County Northeast Central Sewerage System from such Customer or on a flat-rate basis where meters are not available to measure each Customer's Sewage or water use. The County shall be solely responsible for setting, billing, and collecting Sewer User Fees.

B. Water User Fees. The County shall issue bills for, and shall be entitled to payment of, Water User Fees based upon the actual volume of water delivered from the County Wildwood Waterworks System to each Customer located within the Village Retail Water Service Area. The County shall be solely responsible for setting, billing, and collecting Water User Fees.

C. Level of Fees. Sewer and Water User Fees shall be uniform for all Customers within the Village Retail Sewer Service Area and the County Wildwood Waterworks System for similarly situated Customers receiving similar service. Such Sewer and Water User Fees shall at all times be set at levels designed to assure that the County revenues from such Fees will always be sufficient, when considered in light of any other monies legally available for and applied to such purposes, (i) to provide adequate and proper levels of service; (ii) to pay the County's costs of maintenance, replacement, and operation and all applicable NSSD fees and charges; (iii) to pay the principal of, and premiums and interest upon, bonds secured, in whole or in part, by the revenues of the County Northeast Central Sewerage System or the County Wildwood Waterworks System; (iv) to provide a reasonable depreciation fund; and (v) to provide such other reserves and sinking funds as may be deemed necessary or desirable by the County for the payment of such bonds and for the replacement, extension, or improvement of the County Northeast Central Sewerage System and the County Wildwood Waterworks System.

6.4 Metering.

The County shall have the right to establish and enforce reasonable requirements for all Customers located within the Village Retail Water Service Area or the Village Retail Sewer Service Area for the installation, calibration, inspection, maintenance, repair, and replacement of meters to measure each Customer's water consumption for billing and other purposes. Nothing in this Section 6.4 shall be deemed to limit the County's ability to estimate any Customer's water consumption for purposes of establishing Sewer or Water User Fees.

ARTICLE VII

OWNERSHIP AND MAINTENANCE

The County shall be the sole owner of, and shall have the duty to maintain, the County Northeast Central Sewerage System, the County Northeast Central Interceptors, and the County Wildwood Waterworks System. After the Village Retail Sewage Collection Facilities or the Village Retail Water Supply Facilities, or any portion of such Facilities, have 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, the Village Retail Sewage Collection Facilities and the Village Retail Water Supply Facilities or such portion thereof, as part of, respectively, the County Northeast Central Sewerage System and the County Wildwood Waterworks 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 either the County Northeast Central Sewerage System or the County Wildwoods Waterworks System.

ARTICLE VIII

FPA AMENDMENTS

8.1 Joint Action.

In order to promote sound public sewer planning and the efficient and economical use of County and Village facilities being installed and maintained pursuant to this Agreement:

1. The County shall file, and the Village shall support, any application that may be required to amend the Illinois Water Quality Management Plan with respect to the development of the County Northeast Central Sewerage System; and
2. Neither the Village nor the County shall file or support any application to amend, and the County and the Village shall undertake joint and cooperative action to oppose and object to any petition to amend, the Illinois Water Quality Management Plan or the Areawide Water Quality Management Plan for Northeastern Illinois (i) so as to change any of the boundaries of the Northeast Central Regional Area with respect to any property within the Village Retail Sewer Service Area or the Village

Retail Water Service Area in any manner that is inconsistent with this Agreement; or (ii) so as to prevent the Village and the County from serving the Village Retail Sewer Service Area or the Village Retail Water Service Area, as it exists on the Effective Date of this Agreement and as it may be modified pursuant to this Agreement, in the manner provided by this Agreement.

For purposes of this Section, joint action shall include, without limitation, filing written objections, providing staff support, and retaining such attorneys and consultants as the parties mutually agree are necessary with respect to such objections.

8.2 Exception.

Upon the express written agreement of the County and the Village, the parties may choose not to oppose or object to a specific petition to amend the boundaries of the Northeast Central Regional Area without otherwise affecting their general obligation to oppose such petitions.

ARTICLE IX

OTHER CONTRACTS AND SERVICE

9.1 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 under this Agreement; provided, however, that nothing in this Agreement shall be construed to require the County to provide Sanitary Sewer or Water Supply Service to any area of the Village other than the Village Retail Sewer Service Area and the Village Retail Water Service Area.

9.2 Village Acknowledgements.

The Village acknowledges and agrees that: (i) the County does not act or 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 and Water Supply Services to the Village Retail Sewer Service Area or the Village Retail Water 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 or Water Supply Services to any property other than the Village Retail Sewer Service Area and the Village Retail Water Service Area; (iv) the County is under no obligation to provide Sanitary Sewer or Water Supply Service to any property or area other than the Village Retail Sewer Service Area and the Village Retail Water Service Area; and (v) the County's sole obligation to provide Sanitary Sewer and Water Supply Service to Customers located within the Village Retail Sewer Service Area and the Village Retail Water Service Area is the contractual obligation set forth in this Agreement.

9.3 **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 and Water Supply Services to parties other than the Village on such terms and conditions as the County may, in its sole discretion, determine to be appropriate, including, without limitation, Sanitary Sewer Service and Water Supply Service utilizing the County Northeast Central Sewerage System and the County Wildwood Waterworks System.

9.4 **No Third Party Beneficiaries.**

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

ARTICLE X

LEGAL RELATIONSHIPS AND REQUIREMENTS

10.1 Entire Agreement.

There are no representations, covenants, promises, or obligations not contained in this Agreement, or in any Exhibits attached hereto and incorporated herein, that form any part of this Agreement or upon which any of the parties is relying in entering into this Agreement.

10.2 Exhibits.

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

10.3 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.

10.4 Waivers.

No term or condition of this Agreement shall be deemed waived by any 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 waiver of any breach be deemed to constitute a waiver of any subsequent breach whether of the same or a different provision of this Agreement.

10.5 Interpretation and 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, including the exhibits hereto, 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.

10.6 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 10.6 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 Northeast Central Sewerage System and the County Wildwood Waterworks System.

10.7 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 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 County. The County may, upon notice to the Village, assign this Agreement, in whole or in part, or any or all of the County's rights or obligations under this Agreement, to the State of Illinois or another unit of local government authorized by law to provide water or sewer service, without the consent of the Village.

communications to such party, but no notice of a change of address shall be effective until actually received.

10.10 **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.

10.11 **Enforcement.**


A. **Remedies.** 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 County or the Village or any of its officials, agents, representatives, attorneys, or employees on account of the negotiation, execution, or breach of any of the terms and conditions of this Agreement.

B. **Attorney Fees.** Notwithstanding the aforesaid limitation on money damages, the prevailing party in any judicial or administrative proceeding brought for enforcement or breach of any provision of this Agreement shall be entitled to reimbursement from the unsuccessful party of all costs and expenses, including reasonable attorneys' fees, incurred in connection with such judicial or administrative proceeding.

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: 
~~David Stelman~~ Aaron Lawlor
Chairman, Lake County Board

ATTEST: 
Willard Helander
County Clerk

(SEAL)

VILLAGE OF THIRD LAKE

BY: 
President

ATTEST: 
Village Clerk

EXHIBIT A
VILLAGE OF THIRD LAKE
VILLAGE RETAIL SEWER SERVICE AREA

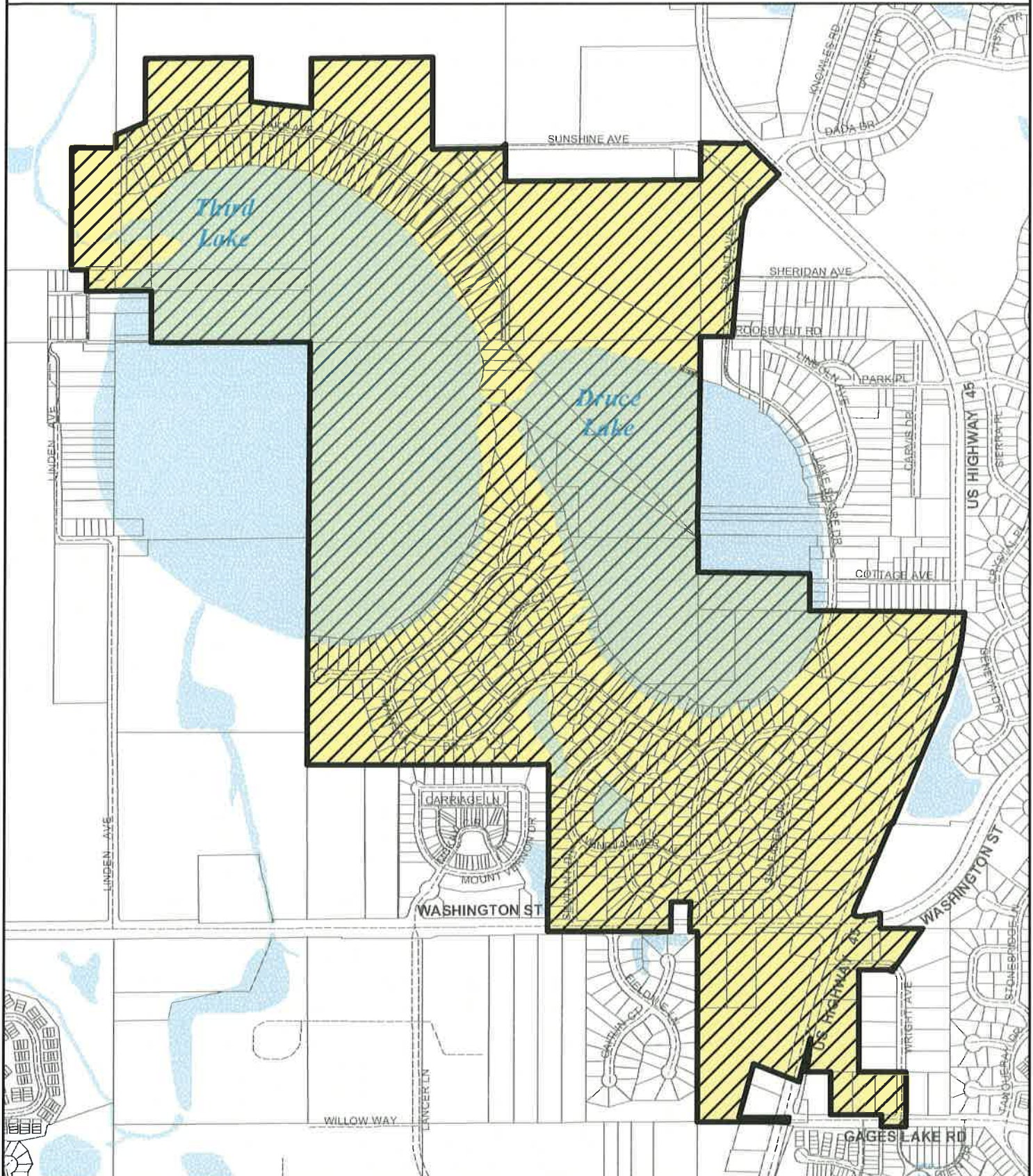


EXHIBIT B
VILLAGE OF THIRD LAKE
VILLAGE RETAIL WATER SERVICE AREA

