

AGREEMENT FOR RETAIL SANITARY SEWER SERVICE TO THE VILLAGE OF DEER PARK

Entered Into by and Between

The County of Lake

and

The Village of Deer Park

as of

October 19, 2023

**AGREEMENT FOR RETAIL SANITARY SEWER SERVICE TO THE VILLAGE OF DEER
PARK**

THIS AGREEMENT is made and executed as of this 19th day of October, 2023, 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 DEER PARK, an Illinois municipal corporation, hereinafter referred to as the "Village."

RECITALS

1. The County owns and operates a system of sanitary sewers and wastewater treatment facilities to collect, transport, and treat sewage in limited portions of the Southeast Lake Facilities Planning Area.

2. The Village has requested access for a discrete retail development to the County's retail sanitary sewer service for an area that would be served by the County's Southeast Sewerage System.

3. Per the terms of this Agreement, the County will accommodate the Village's request for retail sanitary sewer service for collection, transportation, and treatment of sanitary sewage to said retail development by extending a sanitary sewer connection into the subject Village property.

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

The terms and definitions contained in §§ 53.01(F), (I) of the Lake County, Illinois Code of Ordinances are hereby incorporated into and made a part of this Agreement.

2.1 County Sewer 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 (which ordinance, as amended, is currently codified in Title V of the Lake County Illinois Code of Ordinances), 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 System or to

the collection, transport, Pretreatment, or treatment of Sewage in the County, including, but not limited to the fats, oils, and grease regulations established in § 53.09 of the Lake County, Illinois Code of Ordinances, as may be amended from time-to-time. The County Sewer Ordinances are currently codified in the Lake County, Illinois Code of Ordinances.

2.2 County Southeast Interceptors.

The system of Sanitary Sewer interceptors, and related facilities, together with such extensions of, and additions to, such system of interceptors and facilities, all as are or may be owned and operated by the County, located in or near the Village, that are tributary to the County Southeast Plant and receive Sewage from any portion of the Deer Park Retail Sewage Collection Facilities and other Collection facilities tributary to the County Southeast Plant.

2.3 County Southeast Plant.

The treatment plant, commonly known as the Des Plaines River Water Reclamation Facility, as well as any other treatment plant that is owned and/or operated by the County, together with any associated facilities and additions to or extensions of such plant or of such facilities.

2.4 County Southeast Sewerage System.

The County Interceptors, County Southeast Plant, 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, Transporting and Treating Sewage within the Southeast Regional Area or otherwise tributary to the County Southeast Plant. In addition, upon the County's acceptance of ownership of any portion of the Deer Park Retail Sewage Collection Facilities that are tributary to the County Southeast Sewerage System, such facilities, or such portion of them as are assumed by the County, shall become part of the County Southeast Sewerage System.

2.5 County System.

The County Southeast Sewerage System, as well as any other sewerage system owned or operated by the County from which the County may elect to provide sanitary sewer service to Customers in the Deer Park Retail Service Area.

2.6 Customer.

Any dwelling, business, office, industrial, institutional, or other building, facility, or entity located in the Deer Park Retail Service Area that discharges Sewage, either directly or indirectly, into the County Southeast Sewerage System.

2.7 Deer Park Retail Service Area.

Such portions of the area outlined and shaded on Exhibit A attached hereto as are located within the Village limits.

2.8 Deer Park Retail Sewage Collection Facilities.

All Sanitary Sewers, lift stations, connection facilities, and related facilities (as well as associated land, easements, and rights-of-way), whether located within or outside of the Deer Park Retail Service Area, necessary to Collect Sewage from individual Customers located within

the Deer Park Retail Service Area and to deliver such Sewage, directly or indirectly, to the County Southeast Interceptors in accordance with the County Sewer Ordinances, all other applicable laws, ordinances, and regulations, and sound engineering practices. The Deer Park Retail Sewage Collection Facilities include all facilities (both existing and future facilities that may be constructed or installed pursuant to Sections 3.1 and 3.2 of this Agreement) of the Deer Park Retail Service Area. The Deer Park Retail Sewage Collection Facilities shall be included within the definition of County Southeast Sewerage System in accordance with Article III of this Agreement.

2.9 **Force Majeure.**

Strikes; lockouts; 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; epidemics and pandemics; or other similar events or circumstances.

2.10 **Industrial Waste.**

Liquid and water-carried waste discharged by any non-residential Customer.

2.11 **Inflow/Infiltration.**

A. **Inflow:** Water other than wastewater that enters a sewerage system from sources such as roof leaders, drains, manhole covers, cross connections between storm and sanitary sewers, catch basins, cooling towers, storm waters, surface runoff, street wash waters, or drainage.

B. **Infiltration:** Water other than wastewater that enters a sewerage system from the ground through such means as defective pipes, pipe joints, connections, or manholes.

C. **Excessive Inflow/Infiltration:** Any flow greater than 2.5 times the design average flow of the County Southeast Plant, or such greater multiple of the design average flow that may be authorized from time-to-time in the NPDES permit for the County Southeast Plant.

2.12 **Meter.**

Any device used to measure flow.

2.13 **Population Equivalent (P.E.).**

The calculated population that would normally produce 100 gallons of Sanitary Sewage per day containing 0.17 pounds of B.O.D. and 0.20 pounds of total Suspended Solids. The P.E. for a discharger of Industrial Waste shall be based on the highest of the flow, B.O.D., and Total Suspended Solids.

2.14 **Sanitary Sewer Service.**

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

2.15 **Sewer User Fee.**

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

2.16 **Southeast Regional Area.**

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

ARTICLE III

Facilities

3.1 **Deer Park Retail Sewage Collection Facilities.**

A. **Village Obligations.**

The Village shall require the developer to construct the Deer Park Retail Sewage Collection Facilities according to the County permits and standards as defined in the County Sewer Ordinances, and specifically including the following requirements (collectively, the “***Service Extension Requirements***”):

1. Obtain engineering services, from a firm with appropriate experience and acceptable to the County, for the design, plans and specifications, and construction of the Deer Park Retail Sewage Collection Facilities necessary or convenient to serve a property or properties within the Deer Park Retail Service Area;
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 Deer Park Retail Sewage Collection Facilities necessary or convenient to serve a property or properties within the Deer Park Retail Service Area, 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 Deer Park Retail Sewage Collection Facilities necessary or convenient to serve a property or properties within the Deer Park Retail Service Area;
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 Deer Park Retail Sewage Collection Facilities necessary or convenient to serve a property or properties within the Deer Park Retail Service Area;
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 Deer Park Retail Sewage Collection Facilities necessary or convenient to serve a property or properties within the Deer Park Retail Service Area;

6. Convey, or caused to be conveyed, to the County all right, title, and interest in all portions of the Deer Park Retail Sewage Collection 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 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 Deer Park Retail Sewage Collection Facilities necessary or convenient to serve a property or properties within the Deer Park Retail Service Area, including associated administrative activities.
8. Reimburse the County for all of the County's costs and expenses associated with the performance or completion of the Service Extension Requirements.
9. Demonstrate to the County's satisfaction that the Deer Park Retail Sewage Collection Facilities shall not require the County to collect or accept Sewage from any place outside of the Deer Park Retail Service Area.
10. Demonstrate to the County's satisfaction that the performance or completion of the Service Extension Requirements shall provide for appropriate staging of construction and related activities.

The Village shall prohibit all use of the Deer Park Retail Sewage Collection Facilities except as herein provided. In addition, the Village acknowledges that Customers in the Deer Park Retail Service Area shall be subject to applicable regulations and program requirements of the County, including without limitation the County's Pretreatment standards (as required under Subsection 4.1.A of this Agreement) and the standards and requirements of the County's capacity, management, operations, and maintenance program ("**CMOM**") as set forth in the County Sewer Ordinances (the current version being codified at Lake County Code § 53.07. The Village shall assist the County (without cost or expense to the County) in causing Customers in the Deer Park Retail Service Area to comply with such County regulations and programs, which assistance shall include without limitation notifications to such Customers of their obligations relating to the County requirements and requiring such Customers to comply fully with the requirements of this Agreement and the County Sewer Ordinances in order to obtain permits, approvals, licenses, and other authorizations from the Village.

B. County Rights.

The County shall have the right to the orderly expansion of the County System in accordance with the permits and standards contained in the County Sewer Ordinances, all other requirements of law, and sound engineering practices, including, when necessary for such purpose, the appropriate oversizing of facilities and, in connection with such oversizing, the right of recapture to the extent permitted by Illinois law.

3.2 Payment and Guaranty of Costs.

The Village shall require the developer of any property in the Deer Park Retail Service Area to pay the full cost for all portions of the Deer Park Retail Sewage Collection Facilities necessary or convenient to serve a property or properties within the Deer Park Retail

Service Area, including the reimbursement of any and all County costs related to the sewer service extension or sewer service connection. The Village shall further require the developer 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 110 percent of the aforesaid costs, which letter of credit shall be so conditioned, to the satisfaction of the County, as to ensure completion of those portions of the Deer Park Retail Sewage Collection Facilities necessary or convenient to serve a specified property or properties within the Deer Park Retail Service Area.

ARTICLE IV

SANITARY SEWER SERVICE

4.1 County Obligations.

A. Service

The County will provide direct retail Sanitary Sewer Service to Customers lawfully connected to the Deer Park Retail Sewage Collection Facilities within the Deer Park Retail Service Area, subject to and in accordance with the terms of this Agreement and the County Sewer Ordinances, including without limitation:

- i. compliance with the County's Pretreatment standards, programs, and regulations, including those of the County Sewer Ordinances, and all other applicable federal, state, and local laws and regulations, and the provisions of this Agreement. (The Pretreatment standards of the County Sewer Ordinances are currently codified in Chapter 54 of the Lake County Code.)
- ii. compliance with any fats, oils, and grease program (the "**FOG Program**") to ensure compliance with the minimum standards set forth in the County Sewer Ordinances (the current version being codified at Lake County Code § 53.09).

B. Operation and Maintenance.

After any portion of the Deer Park Retail Sewage Collection Facilities has been placed in service by the County pursuant to Article III of this Agreement, the County shall, subject to any conditions precedent and limitations set forth in this Agreement, use its best efforts to operate and maintain the County System in accordance with its customary practices, good engineering practices, and all applicable requirements of law. Use of the County System shall be governed by the County Sewer Ordinances and this Agreement.

4.2 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 Sanitary Sewer Service within any portion of the County, including the Deer Park Retail 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.**

The right of the Village to receive Sanitary Sewer Service from the County pursuant to this Agreement and the County's obligation to provide Sanitary Sewer Service within the Deer Park Retail 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 as may be necessary to provide Sanitary Sewer Service to the Deer Park Retail Service Area, and any and all easements, licenses, and permits that the County determines, in its sole discretion, are necessary for any aspect of the County System placed in service pursuant to this Agreement.
2. Construction and dedication to the County, at no expense to the County, of all future portions of the Deer Park Retail Sewage Collection Facilities necessary to provide the Sanitary Sewer Service being sought, including any Service Extension Requirements required under Subsection 3.1.A of this Agreement.
3. Completion of all work required under Section 5.2(2) above pursuant to the permits and standards of the County Sewer Ordinances and in a manner acceptable to the County and in accordance with sound engineering practices.
4. The ability of the County to provide Sanitary Sewer Services as required by this Agreement without violating any applicable laws or regulations.
5. 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 to receive Sanitary Sewer Service from the County, and the County's obligation to provide Sanitary Sewer Service within the Deer Park Retail Service Area, shall be subject to the following limitations and conditions:

1. The points of connection between the Deer Park Retail Sewage Collection Facilities and the County Southeast Interceptor (or such other facilities of the County System, as the case may be) shall, unless otherwise authorized in writing by the County's Director of Public Works or the Director's designee (the "**PW Director**"), be made within the limits of the Deer Park Retail Service Area or a future sewer extension thereto, but the specific details of such connections shall be determined by the County after consultation with the Village in accordance with sound engineering practices.
2. The Sanitary Sewer Service to be provided by the County shall be on a first-come, first served basis within the limits of available capacity. In addition, the Sanitary Sewer Service to be provided pursuant to this Agreement shall be subject

to the County Sewer Ordinances and all other applicable laws and all other terms and conditions of this Agreement.

3. The following properties within the Deer Park Retail Service Area (each being a "**Property**") shall be restricted to delivering Sewage flows not exceeding the following:

| Parcel Index Number (P.I.N.) | Maximum Authorized Flow (in P.E.) |
|-------------------------------------|--|
| 14-34-100-084 | 10 |
| 14-34-100-080 | 11.6 |
| 14-34-100-011 | 13.1 |
| 14-34-100-010 | 2.9 |

Notwithstanding the foregoing, the owner(s) of any Property may transfer some portion of its authorized Sewage flow to another Property, provided however, that: (a) any such assignment shall be in writing bear a notarized signature of the owner of each Property; (b) such assignment shall be presented to the PW Director; and (c) the PW Director shall approve in writing the assignment and acknowledge the adjusted maximum authorized flow for each Property affected by such assignment.

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 to any Customer located within the Deer Park Retail Service Area unless all County connection charges and Sewer User Fees required by the County for such Services have been paid.

6.2 Sanitary Sewer Connection Charges.

Every Customer located within the Deer Park Retail Service Area hereafter connecting, either directly or indirectly, to the County System shall pay to the County a connection charge at the same rate as the County charges for similar services provided through the County System. The County shall be solely responsible for setting, billing, and collecting all Sanitary Sewer connection charges.

6.3 Sewer 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 Deer Park Retail Service Area shall pay to the County, Sewer User Fees based upon the actual volume, strength, and composition of Sewage delivered to the County System from such Customer. The County shall be solely responsible for setting, billing, and collecting Sewer User Fees.

B. **Level of Fees.** Sewer User Fees shall be uniform for all similarly-situated Customers of the County System receiving similar service. Factors used to determine whether Customers are similarly-situated may include but are not limited to: location of Customer within the Deer Park Retail Service Area; condition of the Deer Park Retail Sewage Collection Facilities;

subsystem, or portions thereof, used for Sanitary Sewer Service to the Customer; and type or volume of Sewage being discharged by the Customer. In any case, to the extent there are any expenses uniquely and specifically related to a particular Customer or subset of Customers, a fee or surcharge sufficient to cover such expenses may be assessed against such Customer or Customers. Such Sewer 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 moneys 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; (iii) to pay the principal of, and premiums and interest upon, bonds secured, in whole or in part, by the revenues of the County Southeast Sewerage 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 Southeast Sewerage System.

6.4 **Basis for Assessing Sewer User Fees.**

A. **Flat Rate User Fees.** Unless the County otherwise determines in accordance with Section 6.4.B of this Agreement, County Sewer User Fees shall be assessed against each Customer within the Deer Park Retail Service Area on a flat rate basis. Customers occupying dwelling units (or for which a certificate of occupancy has been issued for any such Customer's premises) shall be deemed to utilize one (1) R.C.E. of Sanitary Sewer Service each month per dwelling unit, irrespective of actual size, type, occupancy, or use. Customers other than those occupying dwelling units shall be deemed to utilize Sanitary Sewer service each month in accordance with the following calculation:

$$(\text{Estimated P.E. of Customer}) \times \frac{1 \text{ RCE}}{2.5 \text{ P.E.}}$$

where the "Estimated P.E. of Customer" shall be based upon the sewer use coefficients for the County Southeast Plant as established from time-to-time by the PW Director (the "**Current Sewer Coefficients**"), but if the Current Sewer Coefficients are not applicable to the Customer's proposed use, then the "Estimated P.E. of Customer" shall be based on the larger of either: (a) the estimate of P.E. reported in connection with any IEPA permit for such Customer; or (b) the standard P.E. coefficient as applied by the IEPA for persons having similar uses as the Customer.

To the extent that Sewer User Fees for non-metered Customers are expressed in units of cost per 1,000 gallons, an R.C.E. shall be deemed to equal 8,000 gallons per month.

B. **Utilization of Meter Readings.** The County shall have the right in its sole and absolute discretion to establish and enforce requirements for all Customers located within the Deer Park Retail Service Area for the installation, calibration, inspection, maintenance, repair, and replacement of Meters to measure each Customer's Sewage for billing and other purposes. Nothing in this Section 6.4.B shall be deemed to limit the County's ability to estimate any Customer's water consumption for purposes of establishing Sewer User Fees. The County acknowledges that Water Service for the Customers is provided solely by the Village of Palatine ("**Palatine**").

6.5 **Metering.**

To the extent that Sewer User Fees are billed and collected based upon actual volume, strength, and composition pursuant to Section 6.4 of this Agreement, the County shall have the right to establish and enforce reasonable requirements for all Customers located within the Deer Park Retail Service Area for the installation, calibration, inspection, maintenance, repair,

and replacement of meters to measure each Customer's Sewage use (as provided pursuant to Section 6.4) for the purpose of establishing and billing Sewer User Fees. Nothing in this Section 6.5 shall be deemed to limit the County's right to estimate any Customer's water use or Sewage flows for the purpose of establishing and billing Sewer User Fees or to limit the County's ability to establish minimum periodic charges. The County acknowledges that Water Service for the Customers is provided solely by Palatine.

6.6 **Cooperation with Service Termination.**

A. **Public Purpose.** The Parties acknowledge and agree that: (i) Customers have an obligation to pay the Sewer User Fees for Sanitary Sewer Service; (ii) Customers have an obligation to abide by the terms of Sanitary Sewer Service that the County establishes from time-to-time; and (iii) the County shall have no duty to continue to provide Sanitary Sewer Service to Customers who fail to pay amounts due with respect to such services, or who otherwise fail to abide by the County's terms of Sanitary Sewer Service (a "**Non-Compliant Customer**"). The Parties further agree that the County shall have the right to terminate Sanitary Sewer Services to Non-Compliant Customers after appropriate notice and opportunity to cure such non-compliance as set forth in the County Sewer Ordinances. Because the provision of potable water to a Non-Compliant Customer that does not have the right to receive Sanitary Sewer Services could present significant public health concerns, the Village agrees to use reasonable measures to cooperate with the County in connection with the termination of water and Sanitary Sewer Service for Non-Compliant Customers as set forth in Section 6.6.B, but the County acknowledges that Water Service for the Customers is provided solely by Palatine and is not within the operational control of the Village. Nothing in the preceding sentence shall limit the County's right to terminate Sanitary Sewer Service directly to a Non-Compliant Customer.

B. **Termination Procedures.** In the event that the Village provides water service to any Customers under this Agreement, or the Village has an agreement with a potable water provider with respect to water service to such Customers, the Village agrees to take all reasonable measures to cooperate with the County in terminating water service to any Non-Compliant Customer, provided that: (a) the County has notified the Non-Compliant Customer in writing (with a copy to the Village) at least three times regarding Customer's failure to make full payment of amounts due or failure to abide by the County's terms of Sanitary Sewer Service; and (b) the County has notified the Village and Palatine in writing regarding the grounds for termination of such Non-Compliant Customer's Sanitary Sewer Service (a "**Sewer Service Termination Notice**"). The Village's cooperation shall be further subject to: (c) the Village's or water provider's customary water service termination procedures; and (d) the County indemnifying and holding the Village or water provider and its elected and appointed officers, officials, employees, agents, attorneys, and representatives harmless for any claims, liabilities, damages, or judgments arising from any terminated water service occasioned by a Sewer Service Termination Notice. The County acknowledges that water service for the Customers is provided solely by Palatine and is not within the operational control of the Village.

C. **Supplemental Enforcement Rights.** The Village acknowledges and agrees that, notwithstanding any other provision in this Agreement, the County may establish supplemental enforcement rights relating to Non-Compliant Customers, which rights may include without limitation the imposition of special additional charges, the right to enter upon any Village property or easement to effect the disconnection of a Non-Compliant Customer, the filing of liens relating to any costs associated with the disconnection of a Non-Compliant Customer. The Village will assist the County in connection with such special enforcement rights in accordance with Section 3.1.A of this Agreement.

ARTICLE VII

OWNERSHIP AND MAINTENANCE

7.1 Ownership, Operation, and Maintenance.

The County shall be the sole owner of, and shall have the duty to maintain, the County Southeast Plant, the County Southeast Interceptors, and any other portion of the County System used to provide sanitary sewer service to Customers pursuant to this Agreement. After the Deer Park Retail Sewage Collection 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 operate and maintain, the Deer Park Retail Sewage Collection Facilities or such portion thereof, as part of, the County 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 System. Upon collection of any sewage from Customers pursuant to the terms of this Agreement, the County shall be deemed to be the owner of such Sewage.

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 have the right to file (in which case 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 Southeast Sewerage System; and
2. Neither the Village, unless authorized pursuant to Section 4.3 of this Agreement, 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 Southeast Regional Area with respect to any property in the Deer Park Retail Service Area in any manner that is inconsistent with this Agreement; or (ii) so as to prevent the County from serving any property within the Deer Park Retail 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. To the extent then-current laws or policies of the Illinois Environmental Protection Agency ("**IEPA**") do not require an FPA Amendment, delivery of Sanitary Sewer Service may proceed upon the IEPA's issuance of the appropriate permit and upon the Customer's compliance with all terms of this Agreement.

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 Southeast 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 Service to any area of the Village other than the Deer Park Retail 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 in its provision of Sanitary Sewer Service; (ii) the County does not act or operate in a business or proprietary capacity in providing Sanitary Sewer Service to the Deer Park Retail 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 property other than the Deer Park Retail Service Area; (iv) the County is under no obligation to provide Sanitary Sewer Service to any property or area in the Village other than the Deer Park Retail Service Area; and (v) the County's sole obligation to provide Sanitary Sewer Service to Customers located within the Deer Park Retail 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 Service 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 utilizing the County Southeast Sewerage 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.**

Exhibit A attached to this Agreement is by this reference incorporated into and made a part of this Agreement.

10.3 **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 waiver of any breach be deemed to constitute a waiver of any subsequent breach whether of the same or different provisions of this Agreement.

10.4 **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. In addition, the Parties acknowledge that each Party had the opportunity to seek review of this Agreement by counsel prior to its execution and therefore this Agreement shall be deemed to have been drafted mutually by the County and the Village.

10.5 **Governance of County System.**

The County reserves the right to adopt ordinances, rules, and regulations governing the design, installation, and use of the County System.

10.6 **Effective Date and Term.**

A. **Effective Date.** This Agreement shall take effect as of the last date that either of the parties affixes the signatures of its authorized representatives as indicated below.

B. **Term.** This Agreement shall be in full force and effect for a period of 20 years from and after its Effective Date.

C. **Post-Expiration Service.** Upon the expiration of the term of this Agreement without renewal, the County shall have no obligation to allow additional connections from the Deer Park Retail Service Area to the County System. In addition, for Customers connected (directly or indirectly) to the County System prior to the expiration of the term of this Agreement, the County may in its sole discretion either:

- i. Continue to provide Sanitary Sewer Service to such Customers pursuant to such terms as may be set forth in the County Sewer Ordinances;
- ii. Continue to provide Sanitary Sewer Service in accordance with the terms of this Agreement, except with respect to the connection of new Customers to the County System and the setting of Connection Fees and Sewer User Fees; or
- iii. a. Terminate Sanitary Sewer Service to Customers within the Deer Park

Retail Service Areas upon 360 days' notice.

b. In the event of such termination by the County for any reason, or if the County elects not to renew this Agreement upon its termination, then the County will reasonably cooperate with the Village, at the Village's sole cost and expense, to transfer title to the Village to those parts of the Deer Park Retail Sewage Collection Facilities that (i) solely serve the Deer Park Retail Service Area, and (ii) had been previously deeded to the County by owners within the Deer Park Retail Service Area pursuant to this Agreement. The identification of such parts of the Deer Park Retail Sewage Collection Facilities that will be subject to such transfer to the Village (the "**Transferred Facilities**") shall be determined by a mutually agreed upon engineer and shall include only those parts determined to be necessary to provide for new sanitary sewer service to properties in the Deer Park Retail Service Area by a new sewage treatment supplier. The Village agrees to assume any and all costs and expenses associated with removing or disconnecting the Transferred Facilities from the County Southeast Sewerage System, including any costs or expenses reasonably necessary to modify the County Southeast Sewerage System so that the operations and functionality of the County Southeast Sewerage System are not adversely impacted by the removal or disconnection of the Transferred Facilities (the "**Transfer Modifications**"). The County shall have the right to exercise supervisory authority over any work related to the removal or disconnection of the Transferred Facilities or the Transfer Modifications, and the Village shall reimburse the County for all reasonable costs associated with such supervisory activities.

10.7 **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 60085
Attn: County Administrator

and

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

For notices and communications to the Village:

23680 W Cuba Road
Deer Park, IL 60010
Attention: Village Administrator

By notice complying with the foregoing requirements of this Section, 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.

10.8 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.

10.9 Enforcement; 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.

10.10 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.

[End of page. Signature page to follow.]

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: _____
Chair, Lake County Board Date

ATTEST: _____
County Clerk Date

(SEAL)

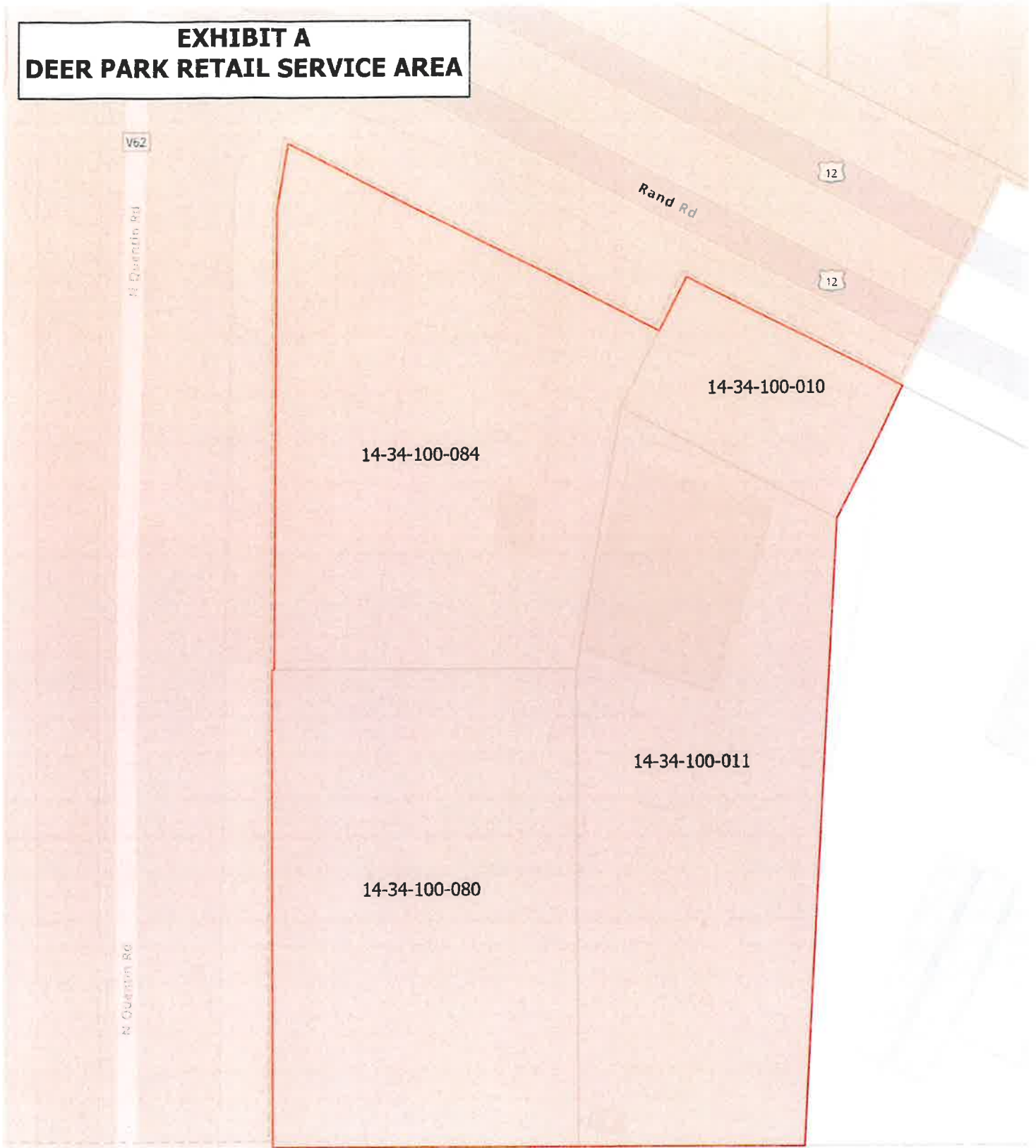
VILLAGE OF DEER PARK

BY: *Greg Rustenberg* 10/19/23
Village President Greg Rustenberg Date

ATTEST: *Kimberly Kelly* 10/19/23
Village Clerk Kimberly Kelly Date



EXHIBIT A DEER PARK RETAIL SERVICE AREA



- Sub Area - South
- Deer Park Addition
- Parcels



EXHIBIT B OVERALL SERVICE AREA

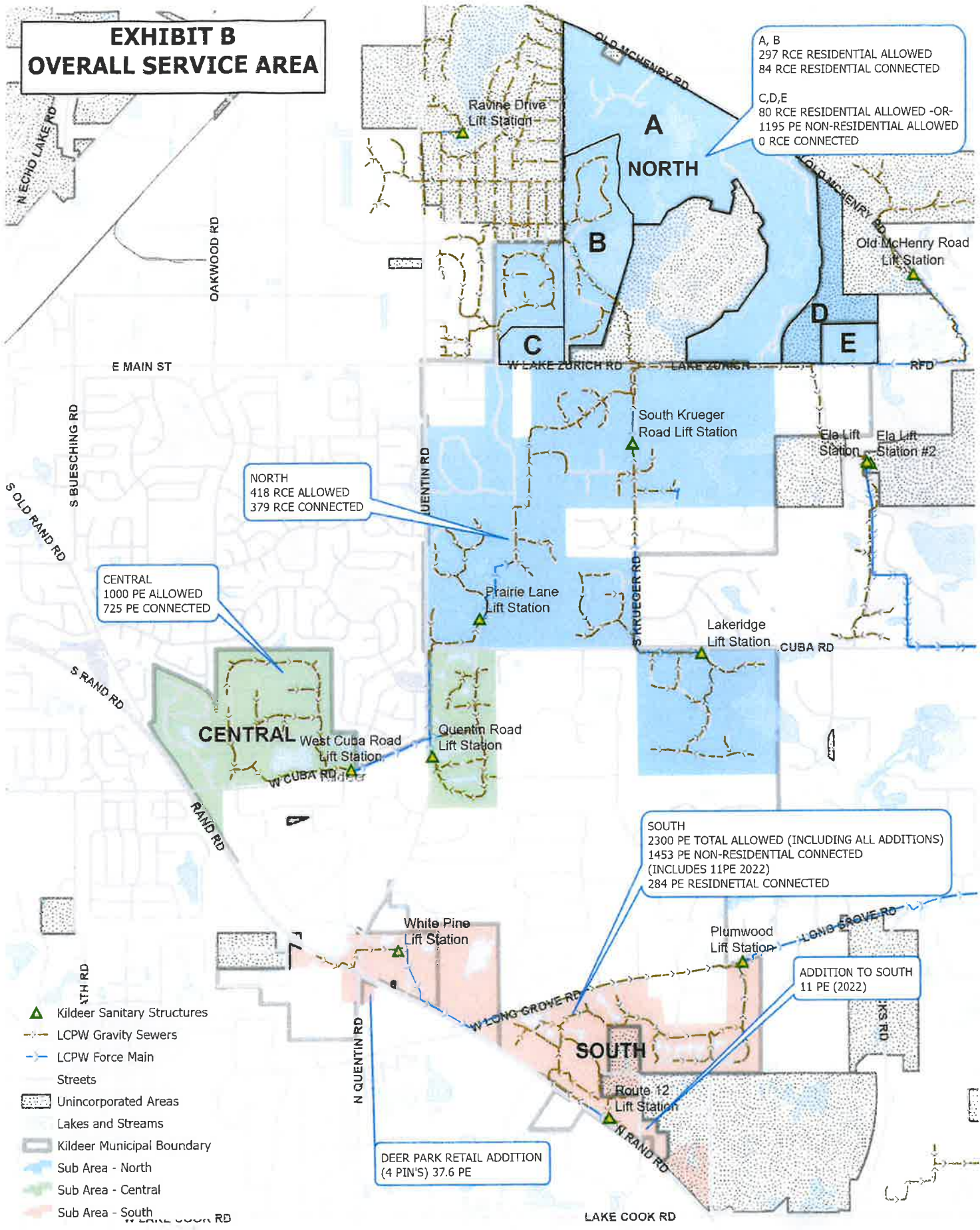
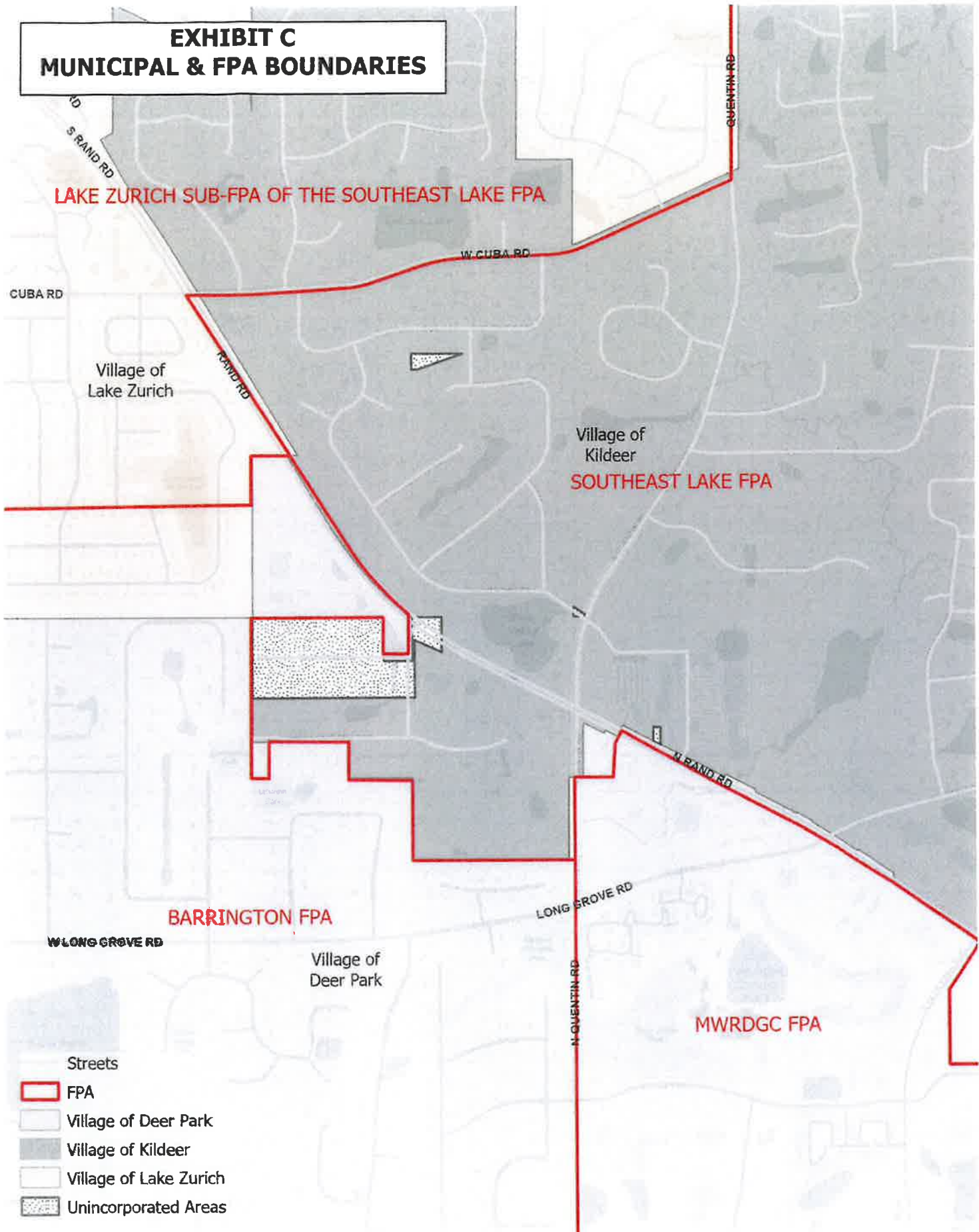


EXHIBIT C MUNICIPAL & FPA BOUNDARIES



- Streets
- FPA
- Village of Deer Park
- Village of Kildeer
- Village of Lake Zurich
- Unincorporated Areas

