

**AGREEMENT FOR SEWAGE DISPOSAL  
Entered Into By and Between  
The County of Lake, Illinois  
and  
The North Shore Water Reclamation District  
Effective as of  
November 1, 2015**

**AGREEMENT FOR SEWAGE DISPOSAL**

THIS AGREEMENT is made and entered into this 13th day of October, 2015 (the "Agreement"), between the COUNTY OF LAKE, Illinois (the "County"), and the NORTH SHORE WATER RECLAMATION DISTRICT (the "District").

**RECITALS**

WHEREAS, the County is a body politic and corporate and a unit of local government in the State of Illinois established and existing under the Illinois Counties Code, 55 ILCS 5/1-1001 *et seq.*

WHEREAS, the District is an Illinois body politic and corporate and a unit of local government in the State of Illinois established and existing under the North Shore Sanitary District Act, 70 ILCS 2305/0.1 *et seq.*

WHEREAS, in order to provide sewage disposal and sewage treatment to the residents of the County, the County and the District entered into intergovernmental agreements for sewage treatment and disposal within the Northeast Central Service Area on or about March 20, 1974 and March 21, 1994 (the "Prior Agreements").

WHEREAS, the Prior Agreements have terminated, and the County and the District wish to enter into a new agreement in order to reestablish, clarify, extend and/or modify their respective sewer related obligations with respect to the Northeast Central Service Area; to promote and provide for the efficient and economic development and use of costly public infrastructure pursuant to sound and logical public sewer plans in order to avoid wasteful duplication of public facilities; and to protect the health, safety, and welfare of residents throughout the Northeast Central Service Area.

WHEREAS, this Agreement is intended to establish respective obligations of the County and District with respect to sewage disposal service within the Northeast Central Service Area and to address matters that remained unresolved upon the termination of the Prior Agreements and the Effective Date of this Agreement. The sewage disposal services contemplated hereunder

are not expected to supplant the appropriate use of on-site sewage disposal systems within the areas served pursuant to this Agreement.

## **AGREEMENT**

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, and pursuant to the provisions of Article VII, Section 10 of the Illinois Constitution, the Intergovernmental Cooperation Act, 5 ILCS 220/1 et seq., Section 5-15010 of the Counties Code, 55 ILCS 5/5-15010, Section 18 of the North Shore Sanitary District Act, 70 ILCS 2305/18, and all other applicable powers of the County and the District, the parties hereto do hereby agree as follows:

### **ARTICLE I**

#### **DEFINITIONS**

1.1. **Prior Agreements.**

The sewage treatment agreement entered into by and between the County and the District on or about March 20, 1974, and all amendments thereto, and the agreement dated March 21, 1994, and all amendments thereto.

1.2. **Mutual Definitions.**

The definitions contained in this Agreement are intended to provide general guidance with terms that may be unfamiliar. Except for terms specifically and expressly defined by this Agreement, the definitions used in the District Sewer Ordinances shall apply to this Agreement, including without limitation the terms: Biochemical Oxygen Demand (B.O.D.); Population Equivalent (P.E.); Pretreatment; Sanitary Sewage; Sanitary Sewer; Sewage; and Suspended Solids (SS).

1.3. **Categorical/Significant User.**

An industrial and/or large commercial user [including without limitation those identified as Categorical Industrial Users (CIU's) or Significant Industrial Users (SIU's) under applicable State

or federal regulations or under District Sewer Ordinances] or a non-domestic User that is either (i) subject to a Pretreatment program administered by the District, or (ii) charged on an individual rate basis for Flow, BOD and SS pursuant to this Agreement.

1.4. **Collection.**

The receipt of Sewage directly from the service connection of an individual Customer and the delivery of such Sewage to the County Northeast Sewerage System, the District Sewerage System or to any other provider of transport or treatment services.

1.5. **Connection Charges.**

The charges imposed on County Customers or District Customers located within the corporate limits of the District as a condition of making connections to the County Northeast Central Sewerage System or the District Sewerage System, as the case may be. The District's Connection Charges are currently identified as the Capital Recovery Fees as set forth in An ORDINANCE ESTABLISHING THE FEES AND CHARGES of the NORTH SHORE WATER RECLAMATION DISTRICT, which the District may amend from time to time. As of the Execution Date, the County Customer shall pay the Annexation Fees based on the rate established for property “. . . if annexed after 8/31/12” as provided in Section 2.1 and the Sanitary Sewer Connection Permit Fees established in Section 2.3 of the District ORDINANCE ESTABLISHING THE FEES AND CHARGES of the NORTH SHORE WATER RECLAMATION DISTRICT. As of the Effective Date, the total of the applicable charges are \$928 per P.E.

1.6. **County Customer.**

Any dwelling, business, office, industrial, institutional, or other building, facility, or entity located in the County Northeast Central Service Area that discharges Sewage that enters into the County Northeast Central Sewerage System for delivery by the County to the District Gurnee Facility pursuant to this Agreement.

1.7. **County Northeast Central Service Area.**

That area depicted on Exhibit A attached located in Lake County, Illinois, as well as such

additional areas to which the County and District may agree from time-to-time as provided in this Agreement.

1.8. **County Northeast Central Sewerage System.**

Any County 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 that are tributary to and are for the purpose of transporting Sewage within the County Northeast Central Service Area to the District Gurnee Facility.

1.9. **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, 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 County Northeast Central Sewerage System or to the Collection, transport, Pretreatment, or treatment of Sewage in the County.

1.10. **Customer.**

A County Customer or a District Customer.

1.11. **District Customer.**

Any dwelling, business, office, industrial, institutional, or other building, facility, or entity located in the District Service Area or such other area (but excluding County Customers) that discharges Sewage into a public or private sewerage system that is tributary to the District Sewerage System for Collection, transport, and/or treatment via any District facilities (including the District Gurnee Facility).

1.12. **District Gurnee Facility.**

The wastewater treatment plant constructed, owned, and operated by the District, and

located at 14940 W. Wm. Koepsel Drive, Gurnee, Illinois in Lake County, Illinois, together with any additions to, or extensions of, such plant (except for such additions, expansions, or facilities that are made with the intention to serve specific users of the District Sewerage System and not County Customers).

1.13. **District Sewer Ordinances.**

All ordinances, including, but not limited to, “An Ordinance Establishing Fees and Charges”, “An Ordinance Relating to Sewers and Sewer Systems”, and “An Ordinance Establishing A User Charge System,” as well as written resolutions and policies providing for guidance and interpretation of District Sewer Ordinances, all as adopted, amended, repealed or revised, from time to time, by the governing body of the District.

1.14. **District Service Area.**

The area located within the District's corporate boundaries, as such boundaries may be amended from time-to-time, or such property located outside the District's corporate boundaries and served pursuant to a sewer service agreement or otherwise served by the District pursuant to the District's statutory authority.

1.15. **District Sewerage System.**

The District Gurnee Facility, and all other Sanitary Sewers, treatment plants, or facilities, as well as associated land, easements, and rights-of-way, that the District, from time-to-time, owns or operates, including all sewers, owned publicly or privately, that are used by one or more properties, which sewers are tributary to a District Treatment Facility, for the purpose of, or related to, collecting, transporting, and/or treating Sewage within the District Service Area.

1.16 **Flow**

The volume of Sewage discharged into the District Sewerage System or County Northeast Central Sewerage System by a dwelling, business, office, industrial, institutional, or other building, facility, or entity, as measured by water usage, actual metering of Sewage, or other reasonable means.

1.17 **Effective Date.**

The date on which this Agreement shall become effective pursuant to Subsection 7.8 of this Agreement.

1.18 **Industrial Waste.**

Liquid and water-carried waste discharged by any Categorical/Significant Users.

1.19 **Meter.**

Any device used to measure Flow.

1.20 **Northeast Central Lake FPA.**

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.

1.21 **Pre-Existing County Sewer Agreement.**

Any unexpired agreement (including amendments thereto) that the County has entered into prior to the Effective Date of this Agreement with any municipal corporation in the County Northeast Central Service Area relating to the provision of sewerage services.

1.22 **Pretreated Sewage.**

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

1.23 **Sewer User Fees.**

A standard rate charged by the District for treatment of Sewage as provided in this Agreement.

**ARTICLE II**

**SEWER SERVICE**

2.1. **County and District Sewage Obligations.**

Except as provided in Section 2.4 of this Agreement, the County agrees to deliver to the District Gurnee Facility all Sewage that the County collects from the County Northeast Central

Service Area during the term of this Agreement. The District shall have no obligation to accept Sewage from the Northeast Central Service Area if the amount of Sewage exceeds the capacity expressly purchased by or on behalf of the County Customers or violates the applicable laws, statutes, regulations or ordinances applicable to the provision of treatment services of the District. The District shall not unreasonably refuse to accept Sewage or provide Sewage treatment to the Northeast Central Service Area and the District agrees to use best efforts to accept such Sewage from the Northeast Central Service Area for treatment at all times for all County Customers legally connected to the County Northeast Central Sewerage System during the term of this Agreement. The District, by this Agreement, does not commit itself to providing Sewage treatment services at the District Gurnee Facility to customers connected to the County Northeast Central Sewerage System except for those County Customers (i) located within the County Northeast Central Service Area and (ii) legally connected to the County Northeast Central Sewerage System and legally connected to the District Gurnee Facility at any time during the term of this Agreement.

**2.2. District Ability to Serve.**

The District shall, after the Effective Date of this Agreement, use its best efforts to operate and maintain the District Gurnee Facility in accordance with its customary practices and sound engineering practices. The obligation to treat Sewage collected by the County Northeast Central Sewerage System from the County Northeast Central Service Area and transported to the District Gurnee Facility for treatment, shall be conditioned upon the limitations of the design and/or capacity of the District Gurnee Facility and which design and/or capacity is not otherwise limited by current or future requirements imposed upon the District Gurnee Facility by the Illinois Environmental Protection Agency or the United States Environmental Protection Agency or any entity lawfully granted oversight authority over the District Gurnee Facility. The County Northeast Central Service Area shall not transport to the District Gurnee Facility Sewage in excess of the average daily flow of P.E. lawfully permitted to County Customers as calculated over the most recent 24-month period, or any Sewage that is unfit under the terms of the District Sewer

Ordinances. The services to be provided by the District pursuant to this Agreement shall be on a first come-first serve basis and within the limits of available capacity and without violating any applicable laws or regulations, including the ability of the District Gurnee Facility to accept Sewage that the County delivers to the District Gurnee Facility from the County Northeast Central Service Area for treatment and disposal in compliance with all applicable laws and regulations.

The County acknowledges and agrees that: (i) the District does not act or operate as a public or private utility; (ii) the District does not act or operate in a business or proprietary capacity in providing sewerage services to lots, tracts, parcels, or areas within the County Northeast Central 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 sewerage services to any lot, tract, parcel, or area other than lot, tracts, parcels, or areas located within the County Northeast Central Service Area except as provided in this Agreement.

2.3. **Points of Discharge.**

Until such time as additional points of discharge to the District Sewerage System are established by mutual written agreement of the parties hereto, the County shall continue at all times during the term of this Agreement to deliver Sewage collected by the County Northeast Central Sewerage System from the County Northeast Central Service Area at the point of discharge to the District Gurnee Facility that is in existence on the Effective Date of this Agreement, which point of connection is located at the boundary of the District Gurnee Facility.

2.4. **Facility Expansions; Alternative Facilities.**

A. **General Limitation on Use of Other Facilities.** The County agrees that it shall not deliver any Sewage collected by the County Northeast Central Sewerage System from the County Northeast Central Service Area during the term of this Agreement to any treatment facility other than the District Gurnee Facility (an "***Alternative Treatment Facility***"), without the prior written consent of the District, except as provided in Subsections B and C of this Section 2.4.

B. **Alternative Treatment Facilities.** In the event the District lacks capacity sufficient to

treat all Sewage collected from the County Northeast Central Service Area, the County may, upon proper notice as provided in Subsection C of this Section 2.4 and upon the District's rejection to accept the additional Sewage, make alternate arrangements for treatment of such additional flows of Sewage from the County Northeast Central Service Area (or any portion thereof) that the District Gurnee Facility cannot accommodate. The County alone shall determine what alternative arrangements shall be made based upon the best interests of the County and its residents so long as the alternative arrangements are not transported, directly or indirectly, to a treatment facility of the District. By pursuing alternative arrangements under this Section 2.4.C, the County shall not be authorized to reduce the volume of Sewage collected from the County Northeast Central Service Area that has been and can continue to be served by the District Gurnee Facility.

C. Required Notice. Any notice required pursuant to Subsection C of this Section 2.4 shall be in writing and shall be delivered to the District not fewer than ninety (90) days before the County delivers any Sewage from the County Northeast Central Service Area to any Alternative Treatment Facility. Such notice shall specify (i) the additional amount of Sewage for which the County requires additional capacity at the District Gurnee Facility and that the County intends to deliver to an Alternative Treatment Facility, (ii) the time within which such additional treatment capacity is required, and (iii) the basis for the County's conclusion that the District will not or cannot treat all Sewage from the County Northeast Central Service Area in accordance with this Agreement. If, within ninety (90) days after such notice is delivered to the District, the District notifies the County in writing that it will provide treatment service for all Sewage from the County Northeast Central Service Area, then the County shall be required to deliver such Sewage to the District Gurnee Facility. If the District notifies the County that the District lacks sufficient capacity or otherwise fails to respond, the County shall have no obligation or right to deliver such additional amounts of Sewage (as set forth in the notice) to the District Gurnee Facility and shall make alternative arrangements for the treatment and disposal at any time thereafter.

D. Treatment Obligation. Nothing in this Section authorizing the County to make

alternative arrangements for treatment of Sewage collected from the County Northeast Central Service Area shall terminate (i) the District's obligation pursuant to this Article to treat all Sewage delivered from the County Northeast Central Service Area (provided, however, the District shall be released from its obligation to provide treatment of Sewage serviced pursuant to alternative arrangements), or (ii) the County's obligation to transport all Sewage delivered to the County Northeast Central Sewerage System to the District Gurnee Facility (except such Sewage authorized by this Section to be treated pursuant to alternative arrangements).

2.5. **Service Area Boundaries.**

A. **District Service Area Boundary.** The District shall not directly or indirectly accept Sewage from any person, firm, municipality, or other governmental agency located within the County Northeast Central Service Area, unless the County otherwise consents in writing. Nothing in this Agreement shall otherwise affect the District's ability to enter into contracts with any other person, firm, municipality, or other governmental agency to receive sewerage service from the District.

B. **County Service Area Boundary.** The County shall not directly or indirectly accept Sewage from any person, firm, municipality, or other governmental agency located within the District Service Area, unless the District otherwise consents in writing. The County shall not, directly or indirectly, accept Sewage from any person, firm, municipality, or other governmental agency located outside the County Northeast Central Service Area for treatment at any District Facility, unless the District otherwise consents in writing. The County Northeast Central Service Area boundaries shall not be amended unless such amendment is approved by the District. The District reserves the right to impose sewer-related conditions upon the District's approval of any amendment that would expand the boundaries of the County Northeast Central Service Area that the District deems appropriate.

C. **Pre-Annexation Sewer Connections.** To the extent that any person, firm, municipality, or other governmental agency is connected to the County Northeast Central

Sewerage System and is subsequently annexed within the corporate limits of the District, such person, firm, municipality, or other governmental agency shall remain a County Customer for purposes of this Agreement unless the County otherwise consents in writing.

D. Non-interference. Neither party shall interfere with the sewerage planning activities in the other's service area, as identified in Subparagraph A and B, in any way, including without limitation the filing of, or objection to, applications to amend the Illinois Water Quality Management Plan, unless requested to do so in writing by such other party to this Agreement; provided, however, that nothing in this Section 2.5.D shall be interpreted to limit either Party's right to take actions in furtherance of assuring compliance with the terms of this Agreement. However, any modification or change to the County Northeast Central Service Area, as may be contained in the Illinois Water Quality Management Plan, shall not expand the obligations or limit the rights of the District under this Agreement unless the District approves such modification. The District shall have no obligation to serve any area located outside of the boundaries of the County Northeast Central Service Area as established in Exhibit A unless the District approves the modification of said boundary. No modification to any County service area shall impose a duty or obligation upon the District to provide treatment services unless the District's governing board has consented in writing to such modification.

### **ARTICLE III**

#### **CHARGES FOR SEWAGE TREATMENT**

##### **3.1. Connection Charges.**

A. In General. For every County Customer hereafter connecting, either indirectly or directly, to the County Northeast Central Sewerage System and receiving Sewage treatment services from the District Gurnee Facility, such County Customer shall pay to the District a Connection Charge in the amount and manner set forth in the District Sewer Ordinances. Whether this Agreement expressly references District Customers or not, the Connection Charge

for County Customers shall be the same as the Connection Charge that would be imposed upon such County Customer as if it were a District Customer located within the corporate limits of the District and shall be imposed upon County Customers in like manner as imposed upon District Customers located within the corporate limits of the District.

B. Basis for Determining Connection Charges. The Connection Charge for any Customer under this Section 3.1 shall be based on the District Sewer Ordinances in place as of the time that a County Customer applies for a District Connection Permit (as defined in Section 3.1.C below). The District may in its discretion adjust the per P.E. Connection Charge for Customers from time-to-time, but, unless the parties otherwise agree in writing, (i) no such adjustment shall occur more than once during any calendar year, (ii) not before the date that such adjustments become effective for District Customers located within the corporate limits of the District, and (iii) only upon notice to the County at least 30 days before the date such adjustments become effective.

C. Collection of Connection Charge. County Customers shall submit an application for the connection to the District and shall deliver to the District the Connection Charge per P.E. to be paid to the District for Sewage treatment services from the District Gurnee Facility at the time required by the District. Upon payment of Connection Charges to the District and satisfaction of all other requirements of the District, the District agrees to deliver to a County Customer a permit setting forth the P.E. and other conditions for such County Customer to deliver Sewage for treatment at the District Gurnee Facility (a "***District Connection Permit***"). No connection shall be permitted to be made to any structure until a District Connection Permit has been issued by the District.

D. Supplemental Connection Fees. Notwithstanding the fact that a County Customer has previously paid a Connection Charge, a "***Supplemental Connection Fee***" shall be charged to County Customers in accordance with regulations of the Illinois Environmental Protection Agency ("***IEPA***") or District Sewer Ordinances applicable to District Customers located within the

corporate limits of the District, including without limitation in the following instances:

- (i) Except as otherwise provided in Section 3.3.C of this Agreement, if a sewer connection application submitted by or on behalf of a County Customer to either the District or the County does not accurately reflect the use, size, or P.E. of such County Customer (where the P.E. for such County Customer for purposes of Connection Charges is provided for in such applicable District Sewer Ordinances or County Sewer Ordinances), such County Customer shall pay the District a Supplemental Connection Fee based upon the difference in P.E. between (a) the P.E. that should have been the basis for the original Connection Charge if the application for sewer connection had been accurate, and (b) the P.E. used to calculate the original Connection Charge; or
- (ii) If a County Customer's actual Sewage P.E. exceeds the permitted Sewage P.E. calculated in the District Connection Permit (or, for County Customers whose connection to the County Sewerage System predated the date of this Agreement, the permit application Sewage P.E.) by more than 15 P.E. (unless such County Customer promptly implements measure to effectively reduce its P.E. after notice from the County), then such County Customer shall pay the District a Supplemental Connection Fee based upon the difference in P.E. between (a) the permitted P.E. calculated in the District Connection Permit or permit application, as the case may be, and (b) the actual Sewage P.E. discharged by the County Customer. If the applicable IEPA permitting requirement in effect from time to time allows less than a 15 P.E. variance as set forth in this paragraph, then the IEPA standard shall apply.
- (iii) Upon any new, modified, expanded, or changed use of the site of any County Customer, the County and such County Customer shall promptly notify the District and District shall determine whether the Sewage P.E., permitted and/or actual, from such County Customer is consistent with the Connection Charge previously paid and permitted for the site. If not, a Supplemental Connection Fee shall be assessed against such County Customer based on such new, modified, expanded, or changed use of the County Customer's site in accordance with the District Sewer Ordinances in effect at the time of such determination.

The Supplemental Connection Fee shall be based on the Connection Charges in effect at the time of payment of such Supplemental Connection Fee. Any County Customer who fails either to reduce its discharge or use of the site to be in conformance with the paid and permitted P.E. or to pay a Supplemental Connection Fee under this Section 3.1.D shall have no right to continued treatment service, and the County agrees to take (or cause to be taken) progressive enforcement action against such County Customer for such failure, which enforcement shall include termination of the County Customer's water and/or sewer service for non-compliance.

E. County Connection Charge. Nothing in this Agreement shall limit the County's

ability to impose on County Customers (i) charges for Collection or transport services as a condition of making new connections to the County Northeast Central Sewerage System, or (ii) supplemental charges for Collection or transport services when Supplemental Connection Fees are assessed by the District pursuant to Section 3.1.D.

F. Effect of Paying Connection Charge. The payment to the District of the required Connection Charge under this Agreement (including any Supplemental Connection Fee pursuant to Section 3.1.D of this Agreement) shall entitle the County Customer making such payment access to treatment services, equal to but not exceeding the P.E. paid and permitted, from the District Gurnee Facility; provided, however, that no County Customer shall be permitted to make a connection to the County Northeast Central Sewerage System or receive treatment services from the District unless such connection has received all required authorizations from, including but not limited to, the District and the IEPA.

G. Metering and Sampling. The District may utilize different means to determine a Customer's Flow, BOD, SS and other components. As part of the determination of sewer user fees, the District may impose upon Customers (including without limitation non-residential flat-rate customers as described in Section 3.2.D.1(b) of this Agreement) the requirement that Flow, BOD, SS and other components be metered, sampled or assessed in such manner deemed appropriate under the District Sewer Ordinances, including associated costs of such Metering and Sampling.

H. Connection Permit Audit. The Parties agree that the District has the right to undertake periodic reviews of all connections to the County Northeast Central Sewerage System (a "**Compliance Review**"), and the County will cooperate with the District in furtherance of any such Compliance Review. If a Compliance Review reveals any County Customers for whom a Supplemental Connection Fee is due, then the County shall pursue enforcement of such charges under the provisions of this Agreement.

3.2. **Treatment Service Payment.**

A. **In General.** After the Effective Date of this Agreement, it is the intention of the Parties that every County Customer receiving treatment services from the District Gurnee Facility shall pay (i) Sewer User Fees consistent with the Sewer User Fees charged to District Customers located within the corporate limits of the District, and (ii) an additional amount that substantially reflects the property tax payments that District Customers located within the corporate limits of the District pay in addition to Sewer User Fees, which combined amount shall be collected by the County and paid to the District as a “***Treatment Service Payment***” (“***TSP***”).

B. **Basic Amount.** Except with respect to Categorical/Significant Users, the County agrees to pay District a monthly TSP based on a Sewage charge and a tax charge as set forth in the following formula:

$$TSP = F + (0.95T)$$

Where “F” is the component based on the following:

$$F = (W^1 \times R^1) + (W^2 \times R^2) + \dots (W^n \times R^n)$$

Where:

$W^n$  is one-third of the most recent quarterly metered water usage for each particular County Customer in the County Northeast Central Service Area, and

The entire quarterly metered water usage, as divided, shall be billed and shall not be replaced by a newer quarterly metered water usage until each third of the quarterly metered water usage has been billed. To the extent that water usage information is provided to the District on a more frequent than quarterly basis,  $W^n$  shall be determined based on the information so provided (i.e., monthly bills will be applied fully for the month in question; bi-monthly bills will be divided equally over two months of invoices), and

$R^n$  is the applicable Sewer User Fee for each particular County Customer in the County Northeast Central Service Area based upon (i) the then-applicable Sewer User Fees that would be applied to a comparable District Customer located within the corporate limits of the District as set forth as of the Effective Date in Section 3.2 of the District’s Fee Ordinance (or any amendment or successor provision

thereto)(the “**District Rate Classifications**”), and (ii) such other charges applicable to a comparable District Customer located within the corporate limits of the District as set forth in the District Sewer Ordinances; and

Where “T” is the tax component based on the following:

$$T = (1/12)(V \times L)$$

Where:

V is the equalized assessed valuation as of January 1 of each year of all properties for which sewage is transported via the County Interceptor to the District Gurnee Facility, and

L is the tax levy rate imposed by the District on the taxable land within the District corporate limits as set forth on the most recently issued tax bills as of January 1 of each year.

The “T” value shall be reviewed and adjusted annually, with any adjusted T value taking effect as of June 1 of each year.

C. Amounts Due from County Customers. The “F” factor used for each County Customer in calculating the TSP shall be based upon individual assessments for Flow, BOD, and SS of Sewage, as well as such other charges in accordance with the then-applicable assessments for such components or other basis as set forth in the District Sewer Ordinances and as would be charged to District Customers located within the corporate limits of the District. Notwithstanding the foregoing, with respect to any County Customers that are Categorical/Significant Users, the District shall calculate, invoice, and collect the TSP for such Categorical/Significant Users on behalf of the County; provided, however, that the County agrees to take (or cause to be taken) progressive enforcement action against such Categorical/Significant Users for non-payment of such invoices and that such enforcement shall include, but not be limited to, the termination of the Categorical/Significant User’s water and/or sewer service for non-compliance. The County shall also cause a lien to be placed upon the real property of any County Customer that is Categorical/Significant User which has failed to pay its invoice and the unpaid invoice exceeds the sum of \$200.00 and is delinquent for more than 90

days. In cases where progressive enforcement action is not appropriate, the County agrees to take such other action as reasonably requested by the District. The County represents and warrants to the District that the County has the authority to delegate the function of directly imposing charges upon County Customers and collecting said charges directly from the County Customers to the District. If the County lacks the authority to delegate said function then the County shall reimburse the District for any financial loss that the District may incur as a result of the County's lack of authority to delegate said function to the District.

D. Procedures for Calculating TSP. In calculating the TSP (other than for Categorical/Significant Users), the following procedures shall be employed:

1. The "W" Factor. For purposes of determining the "W" factor when calculating the TSP in accordance with Section 3.2.B, "W" shall be based on either (i) the metered flow of water usage (where applicable), or (ii) on a flat rate basis. The County shall provide the District with data on a quarterly basis to establish the "W" factor.
  - (a) Metered Flow. For any County Customer whose usage is metered, "W" shall be based upon the actual volume of usage and in such cases where the County Customer's usage is based upon water records "W" shall be based upon actual volume of water usage. To the extent that the District Sewer Ordinances applicable to District Customers located within the corporate limits of the District establish that the metered water usage shall be adjusted for such quantity of water usage that is reasonably estimated as not entering into the sanitary sewers, the total metered flow for County Customers shall be adjusted in accordance with the terms of the District Sewer Ordinances.
  - (b) Flat-Rate Fees. If a domestic residential user is not connected to a public water supply or community water supply, the District may permit the application of Flat-Rate Fees as provided herein. County Customers occupying single family dwelling units shall be deemed to utilize 7,500 gallons per month per single family dwelling unit irrespective of actual size of dwelling unit. County Customers other than those occupying single family dwelling units shall be subject to the Flat-Rate Fees in accordance with the District Sewer Ordinances or IEPA permit, unless the Parties otherwise agree. No County Customer connected to a public water supply or community water supply shall be permitted to be charged based upon a Flat-Rate. For purposes of this paragraph, a domestic residential user shall be limited to a detached single family dwelling unit or a single family dwelling unit which shares a common wall with other single family dwelling units. Motels, hotels, or any similar types of

dwelling do not qualify as domestic residential users under this paragraph.

2. The “R” Factor. For purposes of determining the “R” factors to be applied in calculating the TSP, the County shall provide to the District on a quarterly basis (or such other basis upon which water usage is to be reported) a census of the County Customers their addresses, use, and District Rate Classification assigned to each such County Customer. In the event that the District and County disagree over the District Rate Classification applicable to any particular County Customer, the District shall so notify the County and the District Rate Classification shall be applied to the County Customer, such change shall be applied beginning with the next billing cycle. Retroactive charges attributable to particular County Customers may be collected to the extent authorized in the District Sewer Ordinances for such periods where the County Customer was undercharged for treatment services.

E. Adjustments to District Sewer User Fees. The District may adjust its Sewer User Fees or the District Rate Classifications from time-to-time and such adjusted charges shall be instituted after written notice of such adjustment has been given to the County. Any adjustment in the Sewer User Fees or the District Rate Classifications shall apply equally to County Customers and District Customers located within the corporate limits of the District, but no such adjustment shall apply to County Customers until the latter of (i) 90 days after the District so notifies the County, or (ii) the date that such adjustments become effective for District Customers located within the corporate limits of the District.

F. Time for Payment. Except with respect to those County Customers that the District will invoice directly, the District shall calculate the “F” amount due based on the “W” factor and “R” factor data provided by the County and thereafter provide the County with a monthly invoice of the TSP that is due in accordance with this Section 3.2. The County agrees to pay such invoice for TSP within 30 days after receipt of the invoice.

G. TSP and Sewer User Fees to County Customers. The District acknowledges that the County does not have authority to levy a property tax upon County Customers for the treatment service provided by the District and payable as part of the TSP. Accordingly, the District acknowledges that the County shall have the right to convert the TSP into rates, and to

impose such rates on County Customers in the manner determined by the County in its reasonable discretion, along with such additional Sewer User Fees associated with the transport and other services the County may provide. Nothing in this Section 3.2.G shall limit or excuse the County from paying the TSP amount required under this Section 3.2. For purposes of any Pre-Existing County Sewer Agreement, the amounts due under this Section 3.2 shall be the Sewer User Fees, Charges, and/or Rates of the District (in addition to such other amounts that may be due pursuant to Article IV of this Agreement or the District Sewer Ordinances). The preceding sentence shall have no bearing or application to the District or interpretation of this Agreement.

H. Transition. The District acknowledges that the calculation of TSP represents a fundamental change in the manner in which the County has traditionally calculated and charged Sewer User Fees. Subject to Section 3.3 of this Agreement, the County shall develop an initial census of the County Customers, in an excel file type format or such other file type that is mutually agreed upon, for purposes of calculating the TSP due to the District (the “**Initial Census**”), which Initial Census shall be completed within 90 days after the Effective Date of this Agreement (the “**Initial Census Date**”). During the period prior to the Initial Census Date, the County shall continue to pay the District for treatment services based on the methodology employed as of the expiration of the Prior Agreements.

I. County Sewer User Fees. Nothing in this Agreement shall limit the County's ability to impose on County Customers Sewer User Fees for Collection or transport services in connection with such Customer's use of the County Northeast Central Sewerage System.

3.3. Reconciliation of TSP and Individual Service Agreements. This Section provides for the reconciliation of TSP due to the District from October 1, 2014 through the Initial Census Date (the “**Reconciliation Period**”):

A. Re-Calculation of “F” Component of TSP Based on Initial Census. The Parties agree that, within 60 days after the County delivers the Initial Census to the District, the District

shall recalculate the “F” component of the TSP (as set forth in Section 3.2.B of this Agreement and without imposition of any interest or late fee, charge, or penalty) for the Reconciliation Period based on the District Rate Classifications reflected in the Initial Census and the previously reported water usage (“W”). Within such 60-day period, the District shall also determine the difference between the recalculated “F” component of TSP as set forth in the preceding sentence and the amounts that the County paid during the Reconciliation Period (the “**Reconciliation Amount**”).

B. Credit for Pre-Paid Connection Fees. The Parties acknowledge and agree that, under the Prior Agreements, the County delivered funds to the District for purposes of pre-paying Connection Charges. Based on the County’s past representations to the District regarding reported connections to the County Northeast Central Sewerage System, the unaudited balance of those funds held by the District is \$215,577.25 (the “**Preliminary Pre-Paid Connection Charge Balance**”). The Parties agree that, within 90 days after the Effective Date of this Agreement, the District will undertake a review (and the County will cooperate with the District in furtherance of such review) of all connection permits issued by the County since December 2009 under the Prior Agreements for purposes of reconciling all connection permits with the pre-paid Connection Charges paid to the District (the “**Connection Permit Audit**”). The December 2009 date is not considered by the Parties to be a limitation upon the District’s right to deduct from the Preliminary Pre-Paid Connection Charge Balance any Connection Charge that was due and owing and discovered during the Connection Permit Audit. Based on the results of the Connection Permit Audit, the District shall deduct from the Preliminary Pre-Paid Connection Charge Balance:

- i. \$26,216.00, being the amount of Connection Charges due to the District for five connections (totaling 28.25 P.E.) that occurred during the Reconciliation Period (the “**Outstanding Connection Charges**”); plus
- ii. any monies due either (a) for connections for which the District has not yet received payment (other than the Outstanding Connection

Charges), or (b) for connections where P.E. was permitted but the District did not receive full compensation therefor.

The Parties acknowledge and agree that the balance (whether positive or negative) in pre-paid connection fees (the “**Pre-Paid Balance**”) cannot be determined until the completion of the Connection Permit Audit. Within thirty (30) days after both the Connection Permit Audit is completed and the Reconciliation Amount is determined, the District shall deliver to the County: (i) its calculations of the Reconciliation Amount, and (ii) an invoice for the difference between the Reconciliation Amount and the Pre-Paid Balance. The County shall pay that invoice within 365 days after it is received, or within sixty (60) days if the invoiced amount is less than \$50,000.00.

C. Legacy P.E. Connections. The Parties acknowledge that the County Customer sites identified on Exhibit B (the “**Legacy User Sites**”) either: (i) have received IEPA permits for P.E. in excess of the P.E. approved by the District and for which the County Customer paid in Connection Charges to the District; or (ii) in the past have delivered Sewage in excess of the P.E. authorized by the connection fees paid or connection permits issued. For purposes of applying the terms of this Agreement (and particularly the terms set forth in Section 3.1.D.ii relating to Supplemental Connection Fees), the amount of P.E. represented by the Connection Charges paid to the District with respect to the Legacy User Sites (the “**Paid P.E.**”) shall be as set forth in Exhibit B. To the extent that the Legacy User Sites are subject to the Supplemental Connection Fees as provided in Section 3.1.D of this Agreement, the County shall take such actions as provided in Section 3.1.D to cause such Supplemental Connection Fees to be paid. The County shall cause a memorandum of this Agreement, or such other appropriate document, in a form mutually acceptable to the Parties to be recorded against the title of the Legacy User Sites.

D. Individual Service Agreements. To the extent that the District entered into any service agreements with customers located in the County Northeast Central Service Area, the District shall notify the customers that they shall be deemed County Customers for all purposes under this Agreement.

E. Reservation of Enforcement Rights. The parties acknowledge that this Agreement (and particularly §§ 3.1.D, 3.3.B, and 3.3.C) intends to resolve certain identified issues relating to treatment service for certain County Customers. But nothing in this Agreement shall be deemed to forgive or provide a safe harbor to any other County Customer whose connection was not properly or fully authorized or paid for under applicable District Sewer Ordinances or Prior Agreements, and the District shall reserve the right to require a District Connection Permit and/or the full payment of a Connection Charge or a Supplemental Connection Fee based on actual P.E., which right shall not be impaired by any provisions or interpretation of this Agreement (including the District's rights with respect to connections occurring before 2009). The County agrees to work with the District and fulfill the County's obligations under the enforcement provisions of this Agreement to obtain the County Customer's compliance. Except as otherwise expressly provided in §§ 3.1.D, 3.3.B, and 3.3.C of this Agreement, any County Customer that connected prior to the Effective Date of this Agreement without a connection permit where required or did not pay the Connection Charge in effect at the time the connection was made and which all or a portion of the Connection Charge should have been paid to the District or in any case the District did not receive the District's portion of the Connection Charge shall not be relieved of such obligation to pay such Connection Charge to the District.

3.4. Technical Calculations; Parity. Whenever the number of P.E.s must be calculated in connection with any fee or charge under this Agreement, or any other term or provision of this Agreement, such calculation for County Customers shall be determined in accordance with the same technical standards as are employed with respect to any District Customers located within the corporate limits of the District receiving treatment service from the District Gurnee Facility.

3.5. Records.

A. Each party shall establish and maintain at all times during the term of this Agreement permanent books and records of bills, invoices, rates, receipts, accounts receivable,

quantities of Flow, permits, and any other records relating to Sewage treatment services, Connection Charges, Sewer User Fees, TSP, local I/I surcharges, and Pretreatment surcharges dating back not less than seven years (the "**Recordkeeping Data**"). Records and/or data maintained in an electronic format shall be made available to the other party in an excel file type format or other file type that is mutually agreed upon. All TSP calculations shall be maintained in electronic format. Each party shall have the right to inspect and copy Recordkeeping Data of the other during normal business hours, and the parties hereby waive all copying and related costs. The County shall require all entities which the County has a wholesale type agreement to maintain Recordkeeping Data if such entity's Sewage is treated or otherwise received by the District.

B. For purposes of reporting on Connection Charges, TSP, Sewer User Fees, and overall Sewage Flows (both actual and committed but not-yet-connected), the District and the County shall cooperate to develop and thereafter approve appropriate forms to be used by the owner or manager of any local sewerage system that collects Sewage for delivery to the County for transport services and treatment service by the District. Approvals of such forms shall not be unreasonably withheld.

C. The parties agree that any municipal corporation or sanitary district in the County Northeast Central Service Area that has a valid agreement in place with the County for Sewage transport services shall be granted reasonable opportunities to review Recordkeeping Data from the County and the District so long as the municipal corporation or sanitary district grants the District reasonable opportunities to review Recordkeeping Data maintained by the municipal corporation or sanitary district.

3.6 **Enforcement.** To the extent that any County Customer fails to pay amounts due under this Article III or otherwise violates the terms of this Agreement (a "**Delinquent Customer**"), the County and the District shall cooperate to cause the Delinquent Customer to comply fully with its obligations under this Agreement, including without limitation the termination

of water service if such County Customer is connected to a public water supply or sewer service if not connected to a public water supply, unless otherwise prohibited by law. The County shall have the obligation, either solely or in conjunction with its wholesale customer, to disconnect a Delinquent Customer from the Sewage system where Delinquent Customer is not on a public water supply, unless otherwise prohibited by law. The failure of the County or its wholesale customers to terminate water or sewer services to County Customers that are delinquent shall not relieve the County from paying all charges due the District under this Agreement. The County may not offset any payment to the District based upon the County's failure to collect payments from County Customers. The Parties agree that any enforcement under this Section 3.6 may be taken (or cause to be taken) progressively in order to achieve compliance.

#### **ARTICLE IV**

##### **ADMISSIBLE WASTES AND PRETREATMENT STANDARDS**

###### **4.1. Waste Parameters.**

In order to permit proper treatment of Sewage delivered to the District Gurnee Facility from the County Northeast Central Service Area, the County agrees to prohibit County Customers from discharging to the District Gurnee Facility any Sewage or other material not in compliance with the standards and requirements of the County Sewer and District Sewer Ordinances and the standards and requirements of all other applicable federal, state, and District laws, regulations, rules and permits.

###### **4.2. Pretreatment Program.**

A. District Pretreatment Program. The District shall provide, manage, and operate a Pretreatment program approved by the designated state or federal approval authority, if such approval is required, for the regulation of Sanitary Sewage and Industrial Waste generated within the County Northeast Central Service Area. The Pretreatment program would provide a framework for users discharging Sewage to be delivered to the District Gurnee Facility from the

County Northeast Central Sewerage System to maintain compliance with the Pretreatment standards promulgated under the Federal Clean Water Act, and any amendment thereto, as well as all other applicable federal and state, laws and regulations, as well as complementary District enactments, and the provisions of this Agreement. Compliance with Pretreatment standards promulgated under the Federal Clean Water Act or any other applicable federal, state or local laws and regulations, including the District's enactments, is the sole responsibility of the user and nothing in this Agreement shall be deemed to confer such responsibility or duty upon the District.

B. County Cooperation. The County shall cooperate with the District in the establishment and enforcement of a Pretreatment program in the County Northeast Central Service Area. Such cooperation shall include without limitation the adoption by the County of most recent ordinances establishing the Pretreatment standards set forth in Section 4.2.A of this Agreement for the County Northeast Central Service Area and authorizing the District and its agents, representatives, and inspectors to have access to such properties as may be necessary from time-to-time for the purpose of enforcing the ordinances aforesaid, including without limitation ordinances authorizing the District to bring suit, including but not limited to, for the enforcement of Pretreatment standards, impose and collect fines or other penalties, or to terminate sewer and/or water services as may be necessary for the purpose of enforcement and such other action the District determines to be necessary and appropriate. Notwithstanding the District's rights as set forth in this Section 4.2.B, the County agrees to take (or cause to be taken) progressive enforcement action against a County Customer for any failure to comply with the provisions of this Section 4.2 and that such enforcement shall include termination of the County Customer's water and/or sewer service for non-compliance.

C. District Pretreatment Costs. The District and County may impose charges upon users for the costs associated with the Pretreatment program as established by the District Sewer Ordinances.

D. Pretreatment Charges. For all County Customers that are identified as subject to

the Pretreatment program, the District may impose Pretreatment surcharges in the amount as established in the District Sewer Ordinances for Pretreatment services rendered to each such County Customer directly, as well as fines and penalties for violations of Pretreatment standards, and each such Customer shall be solely responsible for the payment of fines and penalties. The Pretreatment surcharges for County Customers shall be comparable to similar surcharges imposed upon District Customers located within the corporate limits of the District.

E. Pretreatment Services Billing. With respect to any Users that are County Customers subject to the District's Pretreatment program, the District shall invoice and receive payment directly from such County Customers. To the extent that any County Customer fails to comply with this Section 4.2.E by not paying amounts due, the County agrees to take (or cause to be taken) progressive enforcement action against County Customer for any failure to comply with the provisions of this Section 4.2 and that such enforcement shall include termination of the County Customer's water and/or sewer service for non-compliance.

4.3 Categorical/Significant Users.

For any Categorical/Significant Users not fully enrolled in the District's Pretreatment program but charged on an individual rate basis for Flow, BOD and SS pursuant to this Agreement, the District shall calculate amounts due from such Categorical/Significant Users and invoice and receive payment directly from them. The Flow from any such Categorical/Significant Users shall be reduced from the "F" factor in the calculation of TSP under Section 3.2 of this Agreement. To the extent that any County Customer fails to comply with this Section 4.3 by not paying amounts due, the County agrees to take (or cause to be taken) progressive enforcement action against County Customer for any failure to comply with the provisions of this Section 4.3 and that such enforcement shall include termination of the County Customer's water and/or sewer service for non-compliance.

**ARTICLE V**

**OWNERSHIP, MAINTENANCE, AND FPA AMENDMENTS**

**5.1. County Ownership and Maintenance.**

The County shall retain ownership of the County Northeast Central Sewerage System (including without limitation the existing interceptor serving the County Northeast Central Service Area to its point of connection with the District Gurnee Facility), and of all its component parts and of all other facilities and Sanitary Sewers that it now owns, or that it may in the future construct, or of which it may in the future accept dedication from the District or from any other person or entity. The County shall maintain and operate the County Northeast Central Sewerage System in accordance with all applicable laws, ordinances, and regulations and shall bear all risk of loss or damage to said system, all at its sole cost.

**5.2. District Ownership and Maintenance.**

The District shall retain ownership of the District Gurnee Facility to its point or points of connection to the County Northeast Central Sewerage System, but shall have no rights, title, or interest whatever in the County Northeast Central Sewerage System or in any other facilities that the County may construct or accept dedication from any person or entity (other than the right to permit Customers within the District's corporate limits who currently use, or in the future are authorized to connect to and use, the County Northeast Central Sewerage System to continue to use the County Northeast Central Sewerage System). The District shall maintain and operate the District Gurnee Facility in accordance with all applicable laws, ordinances, and regulations and shall bear all risk of loss or damage to said System, all at its sole cost.

**5.3. FPA Amendments**

The Parties acknowledge that the IEPA is currently not enforcing strict adherence to FPA boundaries in the administration of sewerage services. To the extent that FPA boundary compliance is required, however, and in order to promote sound public sewer planning and the efficient and economical use of District Gurnee Facility and the County Northeast Central

Sewerage System pursuant to this Agreement, the County agrees that it shall not seek an amendment to the Northeast Central Lake FPA unless the District agrees in writing.

## **ARTICLE VI**

### **OTHER CONTRACTS AND SERVICE**

#### **6.1. County Rights.**

Except as expressly limited by this Agreement, the County reserves the right to contract with other persons, natural or corporate, private or public, located outside the District Service Area to perform services similar to those to be performed under this Agreement. Except as provided herein, the County shall not enter into contracts or other arrangements with other persons, natural or corporate, private or public, to serve areas of the District Service Area, unless the District consents otherwise in writing.

#### **6.2. District Service Limitation and Rights.**

Except as provided herein, the District shall not enter into contracts or other arrangements with other persons, natural or corporate, private or public, to serve areas of the County Northeast Central Service Area, unless the County consents otherwise in writing. The District reserves the right to contract with other persons, natural or corporate, private or public, located outside the County Northeast Central Service Area to perform services similar to those to be performed under this Agreement.

The County recognizes that the District has the legal obligation to comply with the laws, statutes, rules, regulations and permits of federal, state and local authorities that have authority over the activities of the District. The County agrees that it shall abide by all laws, statutes, rules, regulations and permits of the federal, state and local authorities (including the District's Sewer Ordinances, subject to the terms of this Agreement) as they relate to the treatment services received under this Agreement. The County agrees that the treatment services being provided under this Agreement are contingent upon said compliance. Nothing in this Agreement shall be

interpreted in such a manner as to limit or interfere with the District's ability to enact ordinances, rules or permit conditions to comply with said laws, statutes, rules, regulations and/or permits of federal, state and local authorities. The County agrees that the District may terminate, deny or prohibit the expansion of Treatment services to any entity, including the County, that refuses or fails to comply with the District's ordinances, rules or permits or the laws, statutes, rules, regulations or permits of federal, state or local authorities that have authority over the activities of the District.

6.3. **No Third Party Beneficiaries.**

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

**ARTICLE VII**

**LEGAL RELATIONSHIP AND REQUIREMENTS**

7.1. **Entire Agreement.**

This Agreement supersedes and repeals all prior negotiations, representations, and agreements between the parties hereto, including, without limitation, the Prior Agreements, and there are no representations, covenants, promises, or obligations not contained in this Agreement, including Exhibits attached hereto, that form any part of this Agreement or upon which either of the parties is relying in entering into this Agreement.

7.2. **Recitals and Exhibits.**

All of the recitals in this Agreement and Exhibits A through B attached to this Agreement are, by this reference, incorporated into and made a part of this Agreement.

7.3. **Amendments.**

Except as expressly provided otherwise in this Agreement, this Agreement shall not be modified, changed, altered, amended, or terminated without the written consent of both of the parties hereto, as expressed by a resolution duly adopted by their respective corporate

authorities. An amendment shall not extend the term of this Agreement unless the amendment specifically states that the term of the contract is to be changed.

**7.4. Waivers.**

No term or condition of this Agreement shall be deemed waived by any party unless the term or condition to be waived is set forth specifically in a written document executed by a duly authorized representative of such party. No waiver by either 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 of this Agreement be deemed to constitute a waiver of any subsequent breach whether of the same or different provisions of this Agreement.

**7.5. Interpretation and Severability.**

A. It is the intent of the parties 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 Exhibits A through B, inclusive, the provision that best promotes and reflects the intent of the parties shall control.

B. If any provision of this Agreement is found to be void, invalid, or unenforceable in any respect, but that finding does not frustrate the overall purpose of this Agreement, then the parties intend the remainder of this Agreement to remain in full force and effect. Additionally, the Parties shall seek to amend this Agreement to give full and legal effect to such invalidated provision.

C. If any provision of this Agreement is found to be void, invalid, or unenforceable in any respect, but that finding does frustrate the overall purpose of this Agreement, then either party may terminate the Agreement by giving 60 days' notice of the party's intent to terminate. During the notice period, the parties agree to meet for the purpose of negotiating a solution that will avoid the Agreement's termination, if possible.

**7.6. Regulatory Bodies.**

This Agreement shall be subject to all valid rules, regulations, and laws applicable hereto

and 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 and the amendment or adoption by the District to incorporate and implement such valid rules, regulations, and laws which the District is subject; provided, however, that this Section 7.6 shall not be construed:

- (a) as authorizing the District to enact or adopt and enforce ordinances, rules, or regulations inconsistent with the terms of this Agreement unless in compliance with valid rules, regulations, and laws applicable hereto and passed and promulgated by the United States of America, the State of Illinois, or any other governmental body or agency (or their duly authorized representative or agent) having lawful jurisdiction over the District;
- (b) as waiving the right of either party to challenge the validity of such rules, regulations, or laws on any basis, including the impairment of this Agreement; provided that any ordinances, rules, or regulation consistent with state or federal law and not successfully challenged by either party shall be enforceable by the District, even if inconsistent with the terms of this Agreement or which impose additional conditions or terms upon the Parties that may not have been contemplated at the time this Agreement was executed; or
- (c) as authorizing the County to enact or adopt and enforce ordinances, rules, or regulations inconsistent with the terms of this Agreement or as waiving the right of either party to challenge the validity of such rules, regulations, or laws on any basis, including the impairment of this Agreement; provided that any ordinances, rules, or regulation consistent with state or federal law and not subject to a challenge by either party shall be enforceable by the County.

The District reserves the right to adopt ordinances, rules and regulations governing the design, installation and use of the District Sewerage System that are of general application. In

addition, the District agrees to notify the Director of the County's Department of Public Works via e-mail (or in another manner authorized under Section 7.9 of this Agreement) at least 60 days prior to the effective date of any amendment to the District Sewer Ordinances affecting the County; except that the failure of the District to provide such 60-day notification: (i) shall not relieve the County from complying with any amendment to the District Sewer Ordinances required by the United States government or the State of Illinois or any of their respective agencies; and (ii) shall not affect the validity of this Agreement or of such amendment to the District Sewer Ordinances but shall simply defer the date upon which such amendment shall apply to the County. Nothing in the preceding sentence shall be applicable to any County Customer or shall provide a defense to any County Customer for failing to comply with the requirements of the District Sewer Ordinances. In the event that there is a conflict between County Sewer Ordinances and District Sewer Ordinances the District Sewer Ordinances shall establish the minimum standards related to the provision of services for the treatment, Collection and transport of Sewage. The County may adopt more stringent standards for County Customers than the standards provided in the District Sewer Ordinances.

**7.7. Successors; Assignment.**

This Agreement, and all of its covenants, rights, and obligations, shall extend to, bind, and inure to the benefit of the County and to the District, and to their respective successors, officers, and officials. Except as otherwise expressly provided in this Agreement, neither the County nor the District shall: (a) assign this Agreement in whole or in part; (b) assign any of their respective rights or obligations under this Agreement; or (c) assign any payment due or to become due under the terms and conditions of this Agreement, without the prior express written consent of the other party, which consent may not be unreasonably or arbitrarily be withheld.

**7.8. Effective Date and Term.**

This Agreement shall be in full force and effect and binding on the parties hereto for ten (10) years from and after the Effective Date of November 1, 2015 and may be renewed by mutual

agreement for an additional ten (10) years.

7.9. **Notices.**

Any notice required or permitted to be given under the Agreement shall be in writing and may be given by (a) personal delivery, (b) nationally recognized overnight delivery service, (c) confirmed facsimile, (d) certified or registered mail, return receipt requested, or (e) electronic transmission, accompanied by any of the foregoing notice options; notice shall be deemed given (i) if given personally, as of the date delivered, (ii) if by overnight delivery service, the next business day following deposit with such service, (iii) if by facsimile, the date shown on the confirmed receipt, (iv) if by certified or registered mail, three days after deposit thereof in any main or branch United States Post Office, or (v) if by electronic transmission accompanied by any of the foregoing delivery options, the date of transmittal of the electronic transmission. Notices shall be sent 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 Board Chairman

and

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

For notices and communications to the District:

North Shore Water Reclamation District  
14770 W. Wm. Koepsel Drive  
Gurnee, IL 60031  
Attn: Executive Director

and

North Shore Water Reclamation District  
14770 W. Wm. Koepsel Drive  
Gurnee, IL 60031  
Attn: District Secretary

E-mail addresses of the foregoing recipients shall be the then-current official e-mail of the notice recipient. By notice complying with the foregoing requirements of this Section 7.9, 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 such a change shall be effective until actually received. Notwithstanding the foregoing, bills and invoices may be sent by regular mail.

**7.10. Execution in Counterparts.**

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

**7.11. 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 federal, state, and local laws, ordinances, rules, regulations, and codes. The County shall have the primary obligation and duty to enforce the terms and conditions of this Agreement, including District's ordinances, rules and permits as such relate to County Customers, including but not limited to wholesale customers. The District, upon request, will reasonably cooperate with the County's in respect to the County's enforcement obligations. If the District notifies the County of any violation or suspected violation, the County will take all appropriate steps to investigate any reported violation or suspected violation and shall do so in a prompt manner. The settlement of any violation shall require the express written approval of the District. Nothing herein shall limit the District's right to enforce the District's ordinances, rules and permits as such relate to the County or the County Customers. In pursuing enforcement efforts, the County may take (or cause to be taken) progressive enforcement actions to pursue the cure of any non-compliance. Progressive enforcement actions should be prosecuted in such a manner so as obtain compliance within 180 days from the date such non-compliance is discovered. Progressive enforcement actions relating to the collection of monies due the District, under this Agreement, should be prosecuted in a

manner to obtain compliance within 90 days or as otherwise provided by ordinance or policy adopted by the governing board of the District. For purposes of enforcement, termination of service includes termination of water and/or sewer service of a user. The Parties agree that the termination of water service is preferred as such termination method is more convenient to implement. However, in case where the customer is not connected to a public water supply or the operator of the public water supply refuses to cooperate with the termination of water service the County shall terminate the sewer service of the County Customer.

**7.12 Section and Paragraph Headings.**

The section and paragraph headings used in this Agreement are included solely for the convenience of the parties and shall not be used in connection with the interpretation of this Agreement.

**7.13 Limitation of Liability.**

A. The District shall not be considered an owner, operator or insurer of the County Northeast Central Service Area, County Northeast Central Sewerage System or Northeast Central Lake Facility Planning Area. The County shall be solely responsible for the Sanitary Sewers, planning, development, operation, expansion, repair, maintenance, connections, provision or denial of Sewage treatment service for all areas located within or otherwise served by the County Northeast Central Service Area, County Northeast Central Sewerage System or Northeast Central Lake Facility Planning Area. County shall indemnify, defend, and hold harmless the District against and from any and all actions, causes of action (including but not limited to providing or refusing to provide Sewage treatment services), claims, demands, costs, liabilities, expenses (including reasonable attorneys' fees and court costs) and damages arising out of any and all third party claims to the extent caused by the County's negligent or willful acts or omissions relating to the County Northeast Central Service Area, County Northeast Central Sewerage System or Northeast Central Lake Facility Planning Area.

The District shall not be liable for failure to perform the District's obligations if such failure

is as a result of an event or condition beyond the reasonable control of the District, including but not limited to, Acts of God (including fire, flood, earthquake, lightening, storm, hurricane tornado, or other natural disaster), war, invasion, act of foreign enemies, hostilities (regardless of whether war is declared), civil war, rebellion, riot, revolution, insurrection, sabotage, military or usurped power or confiscation, civil disturbance, terrorist or public enemy acts and activities, nationalization, government sanction, blockage, embargo, labor dispute, strike, lockout or interruption or failure of electricity or telephone service, the loss or inability to obtain service from a utility necessary to furnish power or fuels for the operation and maintenance of the District Gurnee Facility.

B. The County shall not be considered an owner, operator or insurer of the District Sewerage System.

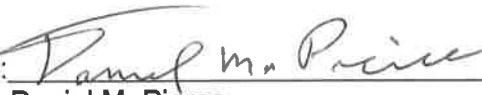
***[Signature page to follow.]***

IN WITNESS WHEREOF, the parties have set their hands and affixed their seals on the date first above written.

**COUNTY OF LAKE**

**NORTH SHORE WATER RECLAMATION DISTRICT**


By:   
Aaron Lawlor  
Chairman, Lake County Board

By:   
Daniel M. Pierce  
District President

**ATTEST:**

**ATTEST:**

  
Carla Wyckoff  
County Clerk

  
District Secretary

(SEAL)

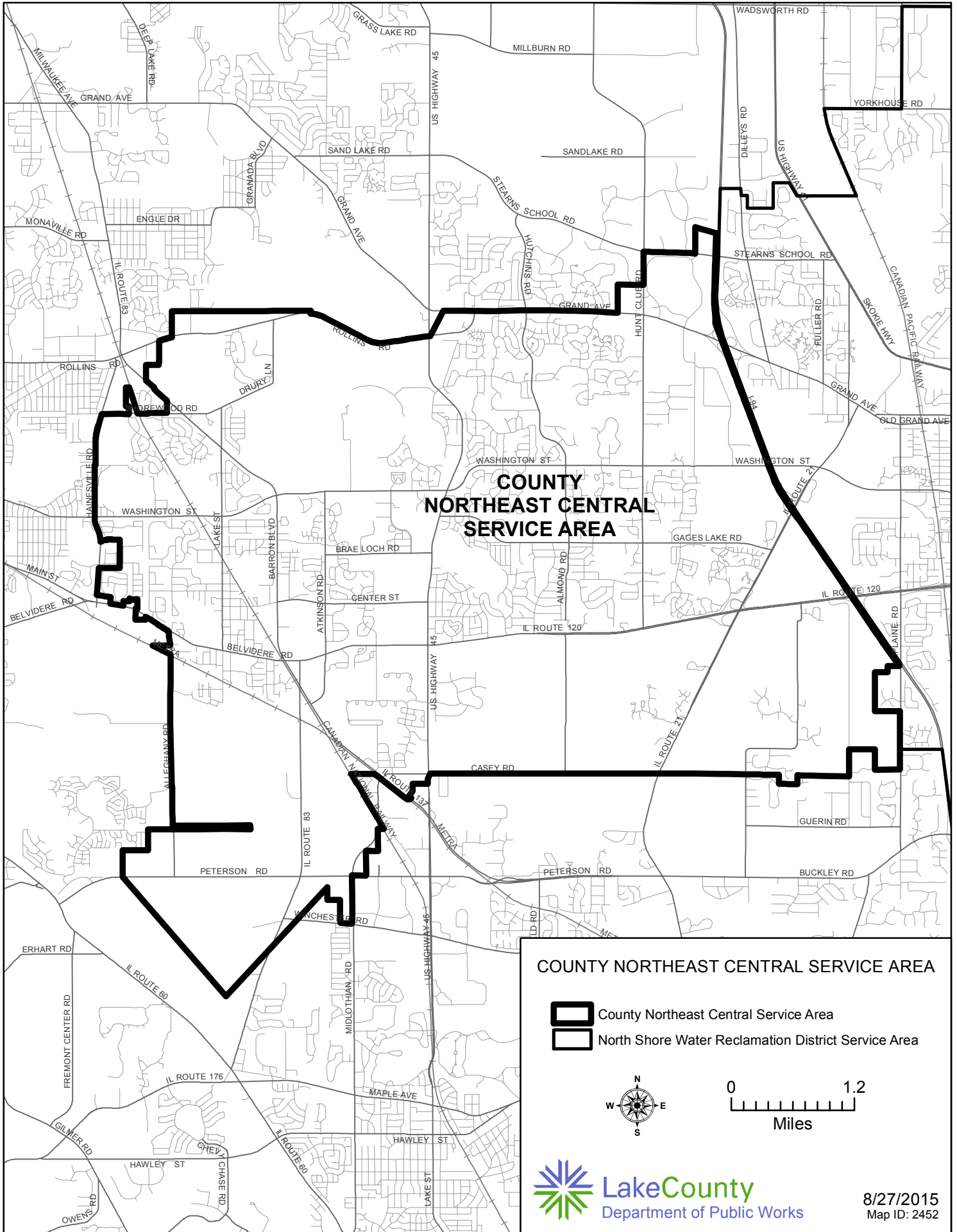
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**EXHIBIT A**

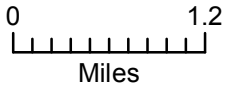
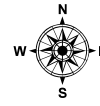
**County Northeast Central Service Area**

EXHIBIT A



COUNTY NORTHEAST CENTRAL SERVICE AREA

-  County Northeast Central Service Area
-  North Shore Water Reclamation District Service Area



**EXHIBIT B**

**Legacy User Sites**

<b><u>Parcel</u></b>	<b><u>P.I.N.s</u></b>	<b><u>Paid P.E.</u></b>
Comfort Suites, Grayslake	0636202004	155.0
Wal-Mart, Gurnee	0708401066	262.4
Kenall Site, Gurnee	0716402052	24.0
Kalle, Gurnee	0712020004	43.0
Wieman, Gurnee	0716400004	472.0