

**NORTHERN LAKE COUNTY
WATER SPECIAL SERVICE AREA PLANNING GROUP
FIRST AMENDED AND RESTATED MEMORANDUM OF UNDERSTANDING**

This **FIRST AMENDED AND RESTATED MEMORANDUM OF UNDERSTANDING** is made as of the date of its execution (this "**Memorandum**"), by and among The County of Lake, Illinois, a body politic and corporate (the "**County**"); the Village of Lake Villa, an Illinois municipal corporation ("**Lake Villa**"); and the Village of Lindenhurst, an Illinois municipal corporation ("**Lindenhurst**") (individually, "**Party**" and collectively, the "**Parties**").

1. **Recitals.**

- A. The Parties have authority to enter into this intergovernmental agreement pursuant to the Intergovernmental Cooperation Act, 5 ILCS 220/1 *et seq.*, Article VII, Section 10 of the 1970 Constitution of the State of Illinois, and other applicable law.
- B. Except for the County, the Parties are all municipal corporations in Lake County, Illinois ("**Municipal Parties**").
- C. On 14 January 2011, the Illinois Department of Natural Resources approved decisions issuing Lake Michigan Water Allocation Permits to the County for the areas commonly known as "**Grandwood Park**" and the "**County Northwest Region**" (which includes the Petite Lake, Fox Lake Hills, and Stanton Bay areas) and to the Municipal Parties for the allocation years 2015 to 2030.
- D. Central Lake County Joint Action Water Agency ("**CLCJAWA**") owns and operates Lake Michigan water intake and treatment facilities ("**JAWA Facilities**") and currently provides the Water Service requirements of its members.
- E. In 2013, the Parties previously entered into the "Northern Lake County Water Special Service Area Planning Group Memorandum of Understanding" ("**Original Memorandum**"). The Parties now intend to enter into this Memorandum as their first amended and restated version of the Original Memorandum.
- F. Subsequent to the execution of the Original Memorandum, the Parties engaged in discussions with CLCJAWA regarding the terms and conditions under which CLCJAWA would provide a supply of potable water from Lake Michigan ("**Water Service**") for the Municipal Parties for parcels within their respective corporate limits, as modified from time to time; and for the County, which seeks to provide Water Service for the Grandwood Park and County Northwest Region service areas within the County, which discussions resulted in an Admissions Agreement dated December 10, 2013 between and among the Parties and CLCJAWA ("**Admissions Agreement**").
- G. Pursuant to the Admissions Agreement, the Parties and CLCJAWA have agreed that it will be necessary to design, construct and install facilities to connect the Parties to the JAWA Facilities to enable the delivery of Lake Michigan Water to the Parties ("**North Group Extension Facilities**").
- H. In order to provide a source of funds for the design, construction and installation of the North Group Extension Facilities, the County has established its County Special Service Area Number 16 pursuant to County Ordinance No. 13-1260,

with the consent of Lake Villa and Lindenhurst ("**Special Service Area 16**") consisting of the territories of the Municipal Parties and the Grandwood Park and County Northwest Region service areas.

- I. Pursuant to the Illinois Special Service Area Tax law, 35 ILCS 100/27, the County is authorized, after the taking of certain proceedings, to borrow money and issue its bonds secured by the full faith and credit of special service areas for providing special services to such areas in evidence of such borrowing for the Connection Facilities.
- J. Pursuant to County Ordinance 13-1331, the County has authorized the issuance of its \$7,000,000 The County of Lake, Illinois Special Service Area Number 16 Unlimited Ad Valorem Special Tax Bonds, Series 2013 ("**Initial SSA Bonds**").
- K. In order to complete the North Group Extension Facilities, the Parties must proceed expeditiously and, accordingly, deem it advisable to authorize their officers and employees to cooperate with each other.
- L. The County has obtained the legal, management, engineering, surveying, and public finance services as were necessary to meet the prerequisites to establish the Special Service Area, issue the Initial SSA Bonds and negotiate the Admissions Agreement with CLCJAWA to enable the provision of Water Service to the Parties, as shown on Exhibit B attached to and made a part of this Memorandum by this reference and as have been further adjusted by mutual agreement of the Parties from time to time ("**Phase One SSA-Related Services**").
- M. In consideration of the County's engagement of professionals to provide the Phase One SSA-Related Services, the County and each of the Municipal Parties have contributed a proportionate share of the costs associated with the Phase One SSA-Related Services in accordance with the capital cost distribution shown on Exhibit C attached to and made a part of this Memorandum by this reference.
- N. Following consultation with and consent of the Working Groups described in this Memorandum and subject to the terms of this Memorandum, the County will engage legal, management, engineering, surveying, and public finance services as are necessary to monitor the administration of the Special Service Area and the issuance of additional bonds through Special Service Area 16 (Initial SSA Bonds and additional Bonds may be collectively referred to as the "SSA Bonds"), the refunding of SSA Bonds, the administration and implementation of the Admissions Agreement with CLCJAWA to enable the provision of Water Service to the Parties, and the design, construction and commencement of operation of the North Group Extension Facilities, as shown on Exhibit B-1 attached to and made a part of this Memorandum by this reference and as may be further adjusted pursuant to Subsection 2.F.1 of this Memorandum by mutual agreement of the Parties from time to time ("**Phase Two SSA-Related Services**").
- O. Following completion of the design, construction and commencement of operation of the North Group Extension Facilities, the Parties may jointly determine, pursuant to Section 2.A of this Memorandum, that the Phase Two SSA-Related Services are complete and that they desire to engage only those services as are necessary to monitor the administration of the Special Service

Area and the issuance of additional SSA Bonds and the refunding and final redemption of the SSA Bonds and close-out of the Special Service Area (“**Phase Three SSA-Related Services**”) (the Phase One SSA-Related Services, Phase Two SSA-Related Services, and Phase Three SSA-Related Services may be collectively referred to as the “**SSA-Related Services**” in this Memorandum).

- P. In order to better ensure that the Parties are able to obtain the benefits of establishing the Special Service Area 16 and obtain Water Service from CLCJAWA in a reasonable period of time, this Memorandum has been prepared in order to delineate the Parties' cost-sharing obligations with respect to the SSA-Related Services.

2. **SSA-Related Services Cost Sharing.**

- A. **SSA-Related Services.** The Municipal Parties acknowledge and agree that: (i) the County will formally engage counsel to perform various aspects of the SSA-Related Services and, following consultation with and the consent of the Working Groups, the County will formally engage management, engineering, surveying, financial advisory, and other financial services professionals to perform the SSA-Related Services; (ii) the results of the SSA-Related Services will be of common and mutual interest among the Parties, and such Services will be undertaken to advance the common interest of the Parties and not in a manner adverse to any of the Parties; and (iii) the County will share with, and seek input from, the Municipal Parties in connection with the SSA-Related Services. The Parties also agree that they will mutually determine, through the Coordinating Working Group, when Phase Two SSA-Related Services are complete and when Phase Three SSA-Related Services will begin. The Parties may also mutually agree, through the Coordinating Working Group, to return to Phase Two SSA-Related Services during the term of this Agreement due to the mutual needs and interests of the Parties.
- B. **Payment.** Subject to the terms of this Memorandum, the County will pay all costs relating to the SSA-Related Services from the Fund (as defined below), proceeds from the Initial SSA Bonds, proceeds from other SSA Bonds, or Additional Contributions pursuant to Subsection 2.C.4 below.
- C. **Sharing of Cost Responsibilities; Reimbursements.**
1. **Initial Contributions.** The Parties agree that they will share some of the costs associated with the SSA-Related Services based upon the relative equalized assessed valuation of real estate located within each of the Municipal Parties' territories and the territory in each of the Grandwood Park and Northwest County Region areas. To that end, each Party will deliver the amount shown on Exhibit C as its share of the costs of SSA-Related Services (“**Initial Contribution**”) to the County to be held in trust (“**Fund**”) for purposes of reimbursing the County for any costs actually incurred for the SSA-Related Services. Such Initial Contributions shall be delivered to the County on or before 10 May 2013. The amount of the Initial Contribution of each Party shall not exceed the amount shown on Exhibit C without an amendment of this Memorandum by the Parties. Following review of, and consultation with the Coordinating Working Group regarding, invoices received, the

County will release moneys from the Fund for payment of costs incurred for the SSA-Related Services.

2. Initial SSA Bonds and Other SSA Bonds. The Parties agree that some of the costs (a) associated with SSA-Related Services or (b) required by the Admissions Agreement may be paid out of the proceeds from the issuance of the Initial SSA Bonds or other SSA Bonds. Following review of, and consultation with the Coordinating Working Group regarding, invoices received, the County will release funds from bond proceeds of the Initial SSA Bonds for payment of costs incurred for the SSA-Related Services or for amounts required under the Admissions Agreement. The Parties agree that other SSA Bonds may be used for (a) additional costs associated with SSA-Related Services or (b) the purpose of providing financial assurances to CLCJAWA pursuant to the Admissions Agreement. All such uses of funds shall be authorized by the Coordinating Working Group and shall comply with the requirements of the Admissions Agreement, where applicable.
 3. Reimbursement. In addition to the Initial SSA Bonds, if other SSA Bonds are issued to finance the provision of Water Service in Special Service Area 16 from time to time, the Parties shall determine whether or not to reimburse themselves for all or part of the out-of-pocket costs of providing the SSA-Related Services, including amounts contributed under this Memorandum.
 4. Additional Contributions. The Parties agree that additional amounts may be necessary to pay costs (a) associated with SSA-Related Services, or (b) required by the Admissions Agreement, at a time when the balance in the Fund, or the proceeds available from the Initial SSA Bonds or other bonds issued through Special Service Area 16, are insufficient to pay those costs. In such an instance, the Parties may pay the additional amounts by one of two methods: (i) agree to contribute an additional amount ("**Additional Contribution**") to the Fund for use in the manner provided in Subsection 2.C.1 for SSA-Related Services, or (ii) in the case of Phase Three SSA-Related Services, the County may notify the Parties of (a) the need for such Services and (b) the amount required for such Services and (c) the respective share allocable to each Party based on the Capital Cost Distribution percentages contained in Exhibit C. In the case of item (ii) of this provision, each Party agrees to pay the County its respective share within sixty (60) days after the receipt of an invoice from the County.
- D. Accounting. The County will provide to the Municipal Parties (i) a monthly notification of the amount spent on SSA-Related Services from the Fund and each other account or fund holding proceeds of the SSA Bonds, including a running total of amounts paid for SSA-Related Services, and (ii) periodic statements of costs incurred for SSA-Related Services. In addition, in connection with the presentation for approval by the Coordinating Working Group as set forth in Subsection 2.F.1, the County will provide statements or invoices for the SSA-Related Services that are to be considered for payment.

- E. No Liability of the County. The County will not be liable to the other Parties for any claim or damage of any kind whatsoever relating to the Phase One and Phase Two SSA-Related Services.
- F. Coordination of the SSA-Related Services. The Parties agree that in order to effectively coordinate the various elements of the SSA-Related Services, certain elements of that Work should be allocated to various informal working groups consisting of officials or personnel, as the case may be, of various Parties, including the following working groups. Each Party shall notify the County in writing of its designees and representatives for each working group and of any changes in such personnel from time to time:
1. Coordinating Working Group: An advisory group comprised of the Policy Advisory Working Group or the Technical Working Group and convened only for the following purposes: Review of periodic reports provided by the County pursuant to Subsection 2.D of this Memorandum; establishment of budget guidance for the provision of services that are part of the SSA-Related Services, including reallocation of funds shown on Exhibits B and B-1 as the exigencies of the project may require and the allocation and expenditure of the Fund and the proceeds of the Initial SSA Bonds and any other bonds issued through the Special Service Area; the issuance, refunding and redemption of the Initial SSA Bonds and any other SSA Bonds; and approval or ratification of expenditures for such services. Any actions taken by the Technical Advisory Working Group under this Section shall be reported in writing to the Policy Advisory Working Group.
 2. Policy Advisory Working Group: An advisory group comprised of one representative from each of the Parties, as follows: (i) Municipal Parties: Village President or Mayor, or his or her designee; and (ii) The County: County Board Chairman, or his or her designee. Designees shall be members of the corporate authorities. The Policy Advisory Working Group is established for the purposes of communication and coordination on matters of mutual concern, and to provide policy direction, regarding the terms and conditions for obtaining Water Service for the Municipal Parties and the County, including input on operational and cost effectiveness matters relating to local systems, transport, and treatment activities, throughout Special Service Area 16.
 3. Technical Advisory Working Group: An advisory body comprised of one representative from each of the Parties, as follows: (i) Municipal Parties: A designee of the Village President or Mayor; and (ii) The County: A designee of the County Board Chairman. Each Party may designate an alternative representative to this Working Group. Representatives and alternate representatives shall be either engineers or full-time employees of the Municipal Parties and the County with responsibilities relating to the Party's water system. Each Party may send additional staff members or consultants to the sessions of this Working Group as necessary for the topics under discussion. This Working Group shall be responsible for consideration of all aspects of the proposed Water Service and the terms and conditions for the procurement of Water Service from CLCJAWA, the administration and

monitoring of the Admissions Agreement, and shall report on a periodic basis to the Policy Advisory Working Group.

3. **Enforceability and Enforcement.** Each of the Parties represents that the persons executing this Memorandum on behalf of such Party is duly authorized to do so. Any Party shall have the right to enforce this Memorandum pursuant to an action filed in the Illinois Circuit Court for the Nineteenth Judicial Circuit in Lake County, Illinois; provided, however, that the Parties agree that no Party shall have the right to enforce this Memorandum to compel any other Party to enter into any agreement that is not mutually acceptable. The Parties agree to meet and confer to discuss any disputes over the terms of this Memorandum prior to filing any such action for enforcement of this Memorandum.
4. **Entire Understanding; Amendment.** This Memorandum contains the entire understanding of the Municipal Parties and the County regarding cost-sharing obligations with respect to the SSA-Related Services, and all other agreements, understandings, representations, and statements, if any, whether oral or written, are merged herein. This Memorandum may be amended only by written instrument executed by the Parties.
5. **Term; Renewal; Execution.** The term of this Memorandum shall be through and including March 31, 2039 (the "***Term***"), commencing on the date that this Memorandum is executed. Prior to the end of the Term, a renewal term may be negotiated by the Parties upon terms and conditions as may be mutually acceptable. This Memorandum may be executed in counterparts.
6. **Return of Remaining Funds.** To the extent that any funds (other than proceeds of the Initial SSA Bonds or any other SSA Bonds) remain after the termination of this Memorandum and the payment of all costs related to the SSA-Related Services, the Parties are entitled to reimbursement of such remaining funds in the same proportion as their respective Initial Contributions as shown on Exhibit C. The County shall deliver such remaining funds to the Parties within 90 days after the termination of this Memorandum, unless otherwise agreed by the Parties.

[SIGNATURES ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF, pursuant to proper authority duly granted, the Parties have set their hands and seals hereto on or before the date first stated above.

ATTEST:

The County of Lake, an Illinois body politic and corporate

By: _____
Its: _____

By: _____
Its: _____

Contact Party for The County of Lake:

Name: _____
Address: _____

Telephone: _____
Facsimile: _____
Email: _____

ATTEST:

Village of Lake Villa, an Illinois municipal corporation

By: _____
Its: _____

By: _____
Its: _____

Contact Party for the Village of Lake Villa:

Name: _____
Address: _____

Telephone: _____
Facsimile: _____
Email: _____

ATTEST:

Village of Lindenhurst, an Illinois municipal corporation

By: _____
Its: _____

By: _____
Its: _____

Contact Party for the Village of Lindenhurst:

Name: _____
Address: _____

Telephone: _____
Facsimile: _____
Email: _____

EXHIBIT B-1

NORTHERN LAKE COUNTY SSA 16 WORKING GROUP
2014 MOU BUDGET
AND CONTINGENCY FOR FUTURE YEAR EXPENDITURES
JANUARY 1 THROUGH DECEMBER 31, 2014
AS OF JANUARY 16, 2014

I. Revenues	
a. Unused Member Contributions from 2013	\$ 55,438.61
b. CLCJAWA Reimbursement—Route Study	\$ 70,000.00
c. CLCJAWA Reimbursement—Facility Plan	\$ 25,000.00
d. Member Reimbursements from Bond Issue	\$163,613.45
TOTAL Revenues:	\$314,052.06
II. 2014 Expenses	
a. Engineering Services	\$ 20,000.00
b. Holland and Knight—Legal Services	\$ 36,000.00
c. SSA 16 Annual Costs:	
Amalgamated Bank—Bonds and Taxes	\$ 1,300.00
Chapman and Cutler—Arbitrage	\$ 1,000.00
Lake County—Audit	\$ 1,000.00
Speer Financial—Retainer	\$ 2,500.00
d. WRB,LLC—Project Management	\$ 36,000.00
Sub Total	\$ 97,800.00
e. Contingency for 2014 and Future Years	\$216,252.06
TOTAL Expenses:	\$314,052.06