

AGREEMENT FOR SEWAGE DISPOSAL
Entered Into By and Between
The County of Lake, Illinois
and
the Village of Round Lake Heights, Illinois
As of

AGREEMENT FOR SEWAGE DISPOSAL

THIS AGREEMENT made and executed this ____ day of _____, 201__, between the VILLAGE OF ROUND LAKE HEIGHTS, a municipal corporation located in Lake County, Illinois, hereinafter referred to as the "**Municipality**", and the COUNTY OF LAKE, Illinois, hereinafter referred to as the "**County**,"

RECITALS:

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

2. The County has established a Department of Public Works pursuant to an Act of the General Assembly of the State of Illinois entitled "An Act in Relation to Water Supply, Drainage, Sewage, Pollution, and Flood Control in Certain Counties", as amended, for the purpose of performing the function of sewage disposal and has prepared a comprehensive plan for the disposal of sewage from areas of the County, including portions of the Northwest Lake Facilities Planning Area established pursuant to the Illinois Water Quality Management Plan, and has prepared plans and programs for providing such service and the related facilities.

3. Pursuant to such plans and programs, the County has constructed, owns, and operates a system of interceptor sanitary sewers in the aforementioned facilities planning area to provide sanitary sewer service. The County and the Village of Fox Lake ("**Fox Lake**") have also entered into the Fox Lake Agreement whereby Fox Lake will provide sewage treatment services for the County in the Northwest Regional Area, subject to certain fees and conditions as outlined in the Fox Lake Agreement.

4. The County and the Municipality have previously entered into an Agreement for Sewage Disposal, dated March 11, 1977 (the "**Prior Sewage Agreement**").

5. In accordance with the Prior Sewage Agreement, the Municipality's sewer system is already delivering sewage from Municipality customers to the County's interceptor for the Northwest Regional Area.

6. The Prior Sewage Agreement has expired. In order to ensure the ability to develop long-range plans for providing sewerage services for future development and redevelopment of territory now within its boundaries or as otherwise provided in this Agreement, the Municipality desires to enter into a new agreement to secure a long-term source for Sewage Treatment services. The Northwest Regional Water Reclamation Facility is the most effective source for such Sewage Treatment services.

7. In light of the expiration of the Prior Sewage Agreement and in order to establish the terms and conditions under which Sewage Treatment services will be provided through the Northwest Regional Water Reclamation Facility, the County and the Municipality desire to enter this agreement for sewage disposal that will permit the Municipality, subject to specified terms, conditions, exceptions, and limitations, to deliver sewage to the County's sanitary sewer system in the Northwest Regional Area for Treatment services via the Northwest Regional Water Reclamation Facility.

AGREEMENT

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

ARTICLE I

RECITALS

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

ARTICLE II

DEFINITIONS

2.1 **Biochemical Oxygen Demand (B.O.D.).**

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

2.2 **Collection.**

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

2.3 **Comprehensive Plan.**

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

2.4 **Connection Charges.**

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

2.5 **Consultation.**

With respect to the County, as used in the Fox Lake Agreement, "consultation" includes: (i) sixty (60) days notice of any matter about which consultation is to occur, unless either (a) exigent circumstances exist, or (b) the Wholesale Advisory Committee and the County otherwise agree; (ii) the delivery of any applicable and available studies to the Wholesale Advisory Committee; and (iii) providing the Wholesale Advisory Committee an opportunity to submit written comment to County Public Works staff before such consultation period concludes.

2.6 **County Interceptors.**

The system of Sanitary Sewer interceptors, and related facilities, as generally described in the Comprehensive Plan and tributary to the Northwest Regional Water Reclamation Facility, together with such extensions of, and additions to, such system of interceptors and facilities, all as are or may be owned and operated by the County in the Northwest Lake FPA.

2.7 **County Northwest Service Area.**

The Northwest Lake FPA (the boundaries of which as of the Effective Date of this Agreement are depicted on Exhibit A), except that portion lying within the Fox Lake municipal service area under the Fox Lake Agreement or any portion of the Northwest Lake FPA that is not to receive Treatment service from the Northwest Regional Water Reclamation Facility pursuant to the Fox Lake Agreement.

2.8 **County Sewerage System.**

The 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 for the purpose of, or related to, Transporting Sewage within the County Northwest Service Area to Northwest Regional Water Reclamation Facility or such other provider of Treatment services as the County may utilize.

2.9 **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 reasonable rules promulgated by the County relating in any way to the County Sewerage System or to the Collection, Transport, Pretreatment, or Treatment of Sewage in the County.

2.10 **Customer.**

Any dwelling, business, office, industrial, institutional, or other building, facility, or entity located in the Municipal Service Area and within the corporate limits of the Municipality that discharges Sewage, either directly or indirectly, into the County Sewerage System. (The County acknowledges that Customers within the Municipal Service Area also receive local sewage collection and transport services from the Municipality and therefore are also Customers of the Municipality.)

2.11 **Effective Date.**

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

2.12 **Force Majeure.**

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

2.13 **Fox Lake.**

The Village of Fox Lake, Illinois.

2.14 **Fox Lake Agreement.**

That certain agreement between the County and Fox Lake dated July 15, 2010 (and amendments thereto that may be entered into from time-to-time) providing *inter alia* for the treatment and disposal of sewage delivered from the County Interceptor to Northwest Regional Water Reclamation Facility.

2.15 **Industrial Waste.**

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

2.16 **Inflow/Infiltration.**

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

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

C. Excessive Inflow/Infiltration: Any flow greater than 2.5 times the design average flow of the Northwest Regional Water Reclamation Facility, or such greater multiple of the design average flow that may be authorized from time-to-time in the NPDES permit for the Northwest Regional Water Reclamation Facility.

2.17 **Meter.**

Any device used to measure flow.

2.18 **Municipal Service Area.**

Those areas located within both: (a) the corporate limits of the Municipality, and (b) the area depicted on Exhibit B to this Agreement; provided, however, that any portion so depicted that is also within the corporate limits of the Lakes Region Sanitary District will be served directly through the Lakes Region Sanitary District and deemed to be excluded from the Municipal Service Area.

2.19 **Municipal Sewage Collection System.**

All Sanitary Sewers, lift stations, connection facilities, and related facilities, as well as associated lands, easements, and rights-of-way, whether located within or without the Municipal Service Area, presently existing or to be constructed in the future, that are owned, operated, or maintained by the Municipality and are necessary to Collect Sewage from individual Customers located within the Municipal Service Area and to deliver such Sewage to the County Interceptors in accordance with the County Sewer Ordinances, all other applicable laws, ordinances, and regulations, and sound engineering practices, except as otherwise expressly provided in this Agreement.

2.20 **Northwest Lake FPA.**

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

2.21 **Northwest Regional Water Reclamation Facility.**

The wastewater treatment plant constructed, owned, and operated by Fox Lake, and located at 200 Industrial Drive, Fox Lake, Illinois, which discharges into the Fox River in Lake County, Illinois, together with any additions to, or extensions of, such plant.

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

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

2.23 **Pretreated Sewage.**

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

2.24 **Pretreatment.**

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

2.25 **Properly Shredded Garbage.**

Garbage that has been shredded to such degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than 1/2 inch in any dimension.

2.26 **Residential Customer Equivalent (R.C.E.).**

A unit of measurement for purposes of imposing Connection Charges or for assessing Sewer User Fees on non-metered Customers that shall equal either:

- A. The sanitary sewage flow from a single dwelling unit of any type; or
- B. For non-residential Customers, which for calculation purposes is 2.5 P.E.

2.27 **Sanitary Sewage.**

Liquid and water-carried waste and Properly Shredded Garbage discharged from the plumbing fixtures of dwellings and other buildings, but not including Industrial Waste.

2.28 **Sanitary Sewer.**

Any sewer that carries Sewage.

2.29 **Sanitary Sewer Service.**

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

2.30 **Sewage.**

Sanitary Sewage, Industrial Waste, and Pretreated Sewage, together with such Inflow/Infiltration as may be permitted pursuant to the County Sewer Ordinances or the Fox Lake Agreement.

2.31 **Sewer User Fee.**

The standard rates charged by the County (which includes applicable County and Fox Lake fees) in the County Sewerage System for Transport and Treatment of Sewage of a specified volume, strength, and composition.

2.32 **Suspended Solids.**

Nonfilterable solids that either float on the surface of, or are in suspension in, Sewage or other liquids.

2.33 **Transport.**

The conveyance of Sewage from the point or points of discharge of the Municipal Sewage Collection System to the Northwest Regional Water Reclamation Facility or to any other provider of Treatment service.

2.34 **Treatment.**

The process, or any portion of the process, of changing the physical, chemical, or biological character or composition of Sanitary Sewage or Industrial Waste so as to meet all federal and state requirements, as well as those reasonable requirements of Fox Lake or the County that are generally applicable throughout the County Northwest Service Area.

2.35 **Wholesale Advisory Committee.**

An advisory body comprised of both the Wholesale Policy Advisory Committee and the Wholesale Technical Advisory Committee, the responsibilities of which are further set forth in bylaws approved by the Wholesale Policy Advisory Committee. (The parties acknowledge and agree that the bylaws of the Wholesale Advisory Committee relate to the operational rules of the Wholesale Advisory Committee and its Policy Advisory Committee and Technical Advisory Committee, and that such bylaws cannot alter or amend the terms or provisions of this Agreement.) The Wholesale Advisory Committee is established for the purposes of communication and coordination on matters of mutual concern regarding sanitary sewerage service, including input on operational and cost effectiveness matters relating to local systems, transport, and treatment activities, throughout the Northwest Lake FPA.

2.36 **Wholesale Policy Advisory Committee.**

An advisory body comprised of one representative from each of the Municipality, the County, Fox Lake, and each additional municipality, sanitary district, and public utility company that (i) owns local sewers that are located within the Northwest Lake FPA; (ii) is served

by the Northwest Regional Water Reclamation Facility; and (iii) is a party to a current contract for such service with the County (together, the "**Wholesalers**"). Representatives (as well as any alternative representatives) are to be approved by resolution of the respective corporate authorities of the Municipality, the County, Fox Lake, and each Wholesaler. Representatives and alternate representatives shall be either members of the corporate authorities or administrative officials of the Municipality, County, Fox Lake, or a Wholesaler.

2.37 **Wholesale Technical Advisory Committee.**

An advisory body comprised of one representative from the Municipality, County, Fox Lake, and each Wholesaler. Representatives (as well as any alternative representatives) are to be approved by resolution of the respective corporate authorities of the Municipality, County, Fox Lake, and each Wholesaler. Representatives and alternate representatives shall be either engineers or full-time employees of the Municipality, County, Fox Lake, or each Wholesaler with responsibilities relating to the representative's sanitary sewer system.

ARTICLE III

SANITARY SEWER SERVICE

3.1 **County Obligations.**

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

3.2 **Municipal Obligations.**

Except as provided in Section 3.3 of this Agreement, the Municipality shall not, at any time during the term of this Agreement, (i) offer, authorize, or permit any Sanitary Sewer Service within the Municipal Service Area other than such Service as is delivered by the County by and through the County Sewerage System; (ii) construct, or cause, permit, or consent to the construction of, any Sanitary Sewers or Treatment facilities (other than the County Sewerage System and the Municipal Sewage Collection System) within the Municipal Service Area; or (iii) deliver Sewage from properties within the Municipal Service Area to any Transport or Treatment facility other than the County Sewerage System (either directly or through tributary lines) without, in each such case, the prior written consent of the County.

3.3 **Alternative Sanitary Sewer Services.**

A. **Limited Right to Use Other Facilities.**

1. **Capacity to Serve.** If, at any time after the Effective Date of this Agreement, the County is unable or unwilling to provide Sanitary Sewer Service as required by this Agreement for all Sewage from the Municipal Service Area either directly or through tributary lines, the Municipality may, upon proper notice as provided in Subsection A.2 of this Section 3.3, and without the consent of the County, make alternate arrangements for Sanitary Sewer Service with respect to such Sewage that the County is unable or unwilling to Transport or Treat. By pursuing alternative arrangements under this Section 3.3.A.1, the Municipality shall not be authorized to reduce the volume of Sewage Collected from the Municipal Service Area that has been

and can continue to be served by the County Sewerage System. For the purpose of this Section, the County's ability to provide Sanitary Sewer Service shall be without regard to any expansion of the County Sewerage System for which the Municipality would be responsible for payment as described in Section 3.3.B, and a request for such an expansion shall not be a condition precedent to exercising the relief herein described.

2. Required Notice. Any notice required pursuant to Subsection 3.3.A.1 of this Agreement shall be in writing and shall be delivered to the County not less than 90 days before the Municipality enters into any agreement or other arrangement for any Sanitary Sewer Service with respect to Sewage from the Municipality by any provider of Sanitary Sewer Service other than the County. Such notice shall specify (a) the additional amount of Sewage for which the Municipality requires additional capacity and that the Municipality intends to deliver to any other service provider, (b) the time within which such additional Sanitary Sewer Service capacity is required, and (c) the basis for the Municipality's conclusion that the County cannot or will not provide Sanitary Sewer Service with respect to such Sewage. If, within 90 days after such notice is delivered to the County, the County agrees in writing to provide the required Sanitary Sewer Service, the Municipality shall be required to take such Service from the County pursuant to this Agreement rather than from any other service provider. Otherwise, the Municipality shall have no obligation to deliver such additional amounts of Sewage (as set forth in the notice) to the County Sewerage System at any time thereafter.

B. Municipality Request for Expansion of County Sewerage System. The parties acknowledge and agree that the County has the right, but not the obligation, to expand the County Sewerage System. Nevertheless, if, (i) as a result of the lack of capacity in any portion of the County Sewerage System needed to Transport Sewage from the Municipal Service Area, the County is unable to provide Sanitary Sewer Service for all Sewage from the Municipal Service Area, and (ii) the County has not otherwise elected to expand the County Sewerage System to address such lack of capacity, then (iii) the Municipality may request the County for a proposal to design, install, and construct such improvements to the County Sewerage System. If the County elects to provide such proposal, and the Municipality agrees in writing to pay the full cost of implementing such proposal (unless the County and Municipality otherwise agree), then the County shall be required to design, install, and construct such improvements in the manner set forth in the proposal, and the County agrees to reserve capacity in the County Sewerage System for the Municipality to the extent that the improvements made pursuant to this Section 3.3.B enhance the capacity of the County Sewerage System to serve the Municipality.

C. Septic Systems. Notwithstanding any provisions in this Agreement to the contrary, residential septic systems serving only one detached single family dwelling on a lot of at least 40,000 square feet in area and any other septic systems that may from time to time receive written approval from the County and Fox Lake shall not be considered to be Treatment facilities for purposes of this Section. In addition, any existing septic systems serving nonresidential structures or residential structures for which certificates of occupancy have been issued prior to the date of this Agreement shall not be considered a Treatment facility for purposes of this Section; provided, however, that such existing septic systems (other than those serving only one detached single family dwelling on a lot greater than 40,000 square feet in area) shall not be replaced or repaired in a manner requiring a permit from the Lake County Board of Health if Sanitary Sewer is reasonably accessible to the property served by such septic system as determined by regulation of the Lake County Health Department or the County Sewer Ordinances. In addition, the County shall not have an obligation to Transport Sewage to the Northwest Regional Water Reclamation

Facility if treated by any type of on-site treatment system for which required permits have been issued and maintained (including without limitation land treatment systems).

3.4 **Other Agreements and Laws.**

Nothing in this Agreement shall be construed or interpreted as a waiver by the County of its rights under any other preexisting agreement, or renewal thereof, to which the County is a party or beneficiary or under state or federal law governing the County's right to provide exclusive Sanitary Sewer Service within any portion of the County, including the Municipal Service Area.

ARTICLE IV

MUNICIPAL SEWAGE COLLECTION SYSTEM

4.1 **Acknowledgement of Existing Municipal Sewage Collection System.**

The parties acknowledge that the Municipality currently owns, operates, and maintains the Municipal Sewage Collection System, which system is tributary to the County Sewerage System. The Municipality shall be permitted to continue to Collect Sewage from Customers within the Municipal Service Area and to deliver such Sewage to the County Sewerage System, subject to and in accordance with the County Sewer Ordinances and the terms of this Agreement.

4.2 **Extensions to Municipal Sewage Collection System.**

A. Permitted Extensions and Enlargements. The Municipality shall be permitted to extend, enlarge, or otherwise modify or improve the Municipal Sewage Collection System in any manner that the Municipality determines is necessary and appropriate in order to serve Customers within the Municipal Service Area; provided that any such extension, enlargement, modification, or improvement shall be undertaken in accordance with the terms of this Agreement.

B. Standards for Extensions or Enlargements. In the event that the Municipality elects to extend, enlarge, or otherwise modify or improve the Municipal Sewage Collection System, either directly or by owners, subdividers, or developers of any lot, tract, or parcel within the Municipal Service Area in connection with the development of any such lot, tract, or parcel, the Municipality shall require any such extension, enlargement, modification, or improvement, to be designed, constructed, and installed in accordance with this Agreement, the County Sewer Ordinances, all other requirements of law, and sound engineering practices. In fulfilling its responsibilities hereunder, the Municipality shall, at a minimum, undertake or cause to be undertaken, at no cost to the County, the following:

1. Obtain engineering services, from a firm experienced in the design of public sewerage systems, for the design, plans and specifications, and construction of any portion of the Municipal Sewage Collection System;
2. Obtain all easements, rights-of-way, licenses, and other property rights that are necessary or convenient to construct, install, operate, and maintain any portion of the Municipal Sewage Collection System, including the preparation of appropriate surveys, agreements, and other relevant documents;
3. Enter into contracts with firms experienced in the construction and

installation of public sewerage systems;

4. Secure all permits, approvals, and authorizations that may be necessary or appropriate to construct, install, and operate the portion of the Municipal Sewage Collection System; and
5. In cases where the County is required to execute an IEPA permit application, submit to the County, for the County's review and approval, all final engineering plans and specifications and all permit applications for such new portions of the Municipal Sewage Collection System.

Further, the Municipality shall permit the County to conduct such reviews and inspections of the work required to be performed pursuant to this Subsection 4.2.B as the County may reasonably deem necessary or appropriate to protect its interests.

C. County Obligations. Subject to the conditions and limitations set forth in Article V of this Agreement and to the other terms and conditions of this Agreement, and subject further to all customary County fees and charges being paid, the County shall have the following obligations with respect to any extension, enlargement, modification, or improvement of the Municipal Sewage Collection System:

1. The obligation to approve, when completed in accordance with this Agreement, the County Sewer Ordinances, all other requirements of law, and sound engineering practices, all designs, all plans, and specifications required to be prepared or supplied pursuant to this Section 4.2; and
2. The obligation to execute, when completed in accordance with this Agreement, the County Sewer Ordinances, all other requirements of law, and sound engineering practices, all permit applications required to be filed pursuant to this Section 4.2, but only when the signature of the County is required by the permitting agency.
3. The County shall complete its obligation under this Section within thirty (30) days after submission in full to the County.

D. Expansion Limitations. Notwithstanding anything in this Article IV to the contrary, the Municipality shall not, without the express written consent of the County, expand the Municipal Service Area. The County reserves the right to demand a new and separate service agreement (or an amendment to this Agreement) in connection with any express written consent required pursuant to the terms of the preceding sentence.

ARTICLE V

CONDITIONS AND LIMITATIONS

5.1 Conditions Beyond County's Control.

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

5.2 **Conditions Precedent to County Service.**

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

- A. Receipt by the County of all necessary governmental approvals to operate all of the components of the County Sewerage System as may be necessary to provide Sanitary Sewer Service to such Customer pursuant to this Agreement;
- B. Connection of the Customer to the Municipal Sewage Collection System in accordance with this Agreement;
- C. (i) The ability of the County to provide Sanitary Sewer Service as required by this Agreement without violating any applicable laws or regulations or the provisions of the Fox Lake Agreement, (ii) the ability of the Northwest Regional Water Reclamation Facility to accept Sewage that the Municipality delivers to the County Sewerage System from the Municipal Service Area for treatment and disposal in compliance with all applicable laws and regulations, and (iii) the legal right of the County to deliver said Sewage to said plant for such purposes;
- D. Payment of required Connection Charges to the County; and
- E. All other terms and conditions of this Agreement.

5.3 **Limitations on County Service.**

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

- A. No new points of connection between the Municipal Sewage Collection System and the County Interceptors shall be permitted unless authorized in writing by the County Director of Public Works, in which case the precise number, size, and location of such new connections shall be determined by the County, after consultation with the Municipality and consideration of the Comprehensive Plan and the County Sewer Ordinances, in accordance with sound engineering practices.
- B. The Sanitary Sewer Service to be provided by the County pursuant to this Agreement shall be on a first come-first serve basis and within the limits of available capacity.
- C. The Sanitary Sewer Service to be provided by the County pursuant to this Agreement shall be subject to the County Sewer Ordinances and all other applicable laws, ordinances, rules, and regulations that are generally applicable throughout the County Northwest Service Area, including the Fox Lake Agreement and any Pretreatment standards. Except as otherwise required by federal or state law or the Fox Lake Agreement, no amendment to the County Sewer Ordinances shall be enforced against the Municipality until 60 days after the County shall have given the Municipality written notice

of such amendment. The Municipality shall be given notice by the County Director of Public Works of any proposed amendment to the County Sewer Ordinances prior to the adoption of such amendments in order to permit the Municipality to review and comment; provided that any failure to give notice shall not affect the applicability of such amendments to the County Sewer Ordinances, but such amendments shall not take effect with respect to the Municipality until 60 days after the delivery of notice by the County of the effective date of the amendment. In addition, the maximum infiltration rate for new Sewers constructed within the Municipal Sewage Collection System shall conform to the rules and regulations of the Illinois Environmental Protection Agency.

- D. The Sanitary Sewer Service to be provided by the County pursuant to this Agreement shall be subject to all other terms and conditions of this Agreement.

5.4 **Additional Conditions and Limitations of Service.**

A. Continuation of Services. Notwithstanding the termination of this Agreement, the County agrees to continue to provide Sanitary Sewer Services to:

1. Any Customers in the Municipal Service Area receiving Sanitary Sewer Services at the time of the termination of this Agreement;
2. Any parcel in the Municipal Service Area for which connection charges have been paid to the County prior to the termination of this Agreement; and
3. Any parcel in the Municipal Service Area for which the County has approved a sanitary sewer permit application to the Illinois Environmental Protection Agency prior to the termination of this Agreement

The County's agreement under this Section 5.4.A: (i) shall have no force or effect in the event that the County has ceased providing Sanitary Sewer Services to others within the Northwest Lake FPA; (ii) is only to provide Sanitary Sewer Services consistent with the Services that the County provides to other Customers within the Northwest Lake FPA; and (iii) shall be subject to the terms and conditions of Service pursuant to which the County provides Sanitary Sewer Service to other Customers within the Northwest Lake FPA, including without limitation payment of Connection Charges and Sewer User Fees.

B. Limitation on County Respecting Customers. The County acknowledges that (i) the Municipality shall be solely responsible for the billing and collection of fees and charges from Customers within the Municipal Service Area, and (ii) the Municipality shall have primary responsibility with respect to ensuring compliance by its Customers within the Municipal Service Area of the requirements imposed pursuant to this Agreement. In the event the Municipality fails to seek and enforce compliance with this Agreement, the County may, but is not obligated to, seek and enforce compliance against any Customer within the Municipal Service Area that is in violation thereof.

C. Special Definition. For purposes of this Section 5.4, the term "Parcel" shall mean any lot, plot, property, tract, parcel, or land area, however owned, combined, held, or assembled.

ARTICLE VI

CHARGES AND FEES

6.1 Municipal Payment of County Sewer User Fees and Connection Charges.

A. The Municipality shall be obligated to pay Connection Charges to the County relating to new Customers connecting to the County Sewerage System (and indirectly to the Northwest Regional Water Reclamation Facility or any other Treatment facility) for Sanitary Sewer Service within the Municipal Service Area as provided for in this Article VI. The Municipality shall deliver payment of the Connection Charges within thirty-five (35) days after such connection is authorized or effected (whichever first occurs).

B. The Municipality shall be obligated to pay Sewer User Fees to the County for Sanitary Sewer Service billed to Customers within the Municipal Service Area and connected to the County Sewerage System (and indirectly to the Northwest Regional Water Reclamation Facility or any other Treatment facility) as provided for in this Article VI. The Municipality shall pay all such Sewer User Fees to the County within thirty-five (35) days after the due date of its periodic Customer service billing.

C. If the Municipality fails to make timely payment in full of charges due to the County pursuant to Section 6.1.A or 6.1.B above, daily interest charges for late payments to the County shall be assessed against the Municipality at a rate of nine percent per annum. A summary statement of Customers and amounts billed shall accompany each payment. A complete statement of accounts and billing records shall be made available to the County upon request. In addition, the County shall have access to the Municipality's records relating to the Municipal Sewage Collection System, and the Municipality shall have access to the County's records relating to the County Sewerage System.

D. The Municipality assumes the responsibility to collect, and irrespective of collection, shall be responsible for payment to the County of, all Connection Charges and Sewer User Fees as provided for in this Agreement. The Municipality shall use its best efforts and all reasonable commercial means to collect the amounts due the County. The Municipality shall not issue any sewer permits until the Municipality has collected the Connection Charges due the County and the Northwest Regional Water Reclamation Facility. To the extent applicable, the Municipality shall shut off water and/or sanitary sewer service to properties with delinquent accounts.

E. Pursuant to the Fox Lake Agreement, a portion of the Connection Charges and Sewer User Fees that the County imposes from time to time will be the connection charges or the sewer user fees of Fox Lake relating to a Customer's use of the Northwest Regional Water Reclamation Facility. The Municipality is required to pay the entire Connection Charge or Sewer User Fee that is due, including the Fox Lake component of such charge or fee.

6.2 Connection Charges.

The Municipality shall collect from every Customer located within the Municipal Service Area hereafter connecting to the County Sewerage System (either directly or indirectly) a Connection Charge at the same rate as the County from time-to-time charges for similar Sanitary Sewer Services provided by the County through similar facilities of the County Sewerage System. The County shall be solely responsible for setting such Connection Charges, subject to the adjustment provisions in Section 6.7 of this Agreement.

6.3 Basis for Determining Connection Charges.

A. Connection Charges shall be assessed against each Customer on a per Residential Customer Equivalent (R.C.E.) basis. Unless the parties otherwise agree in writing, (i) all dwelling units, irrespective of size or type, shall be assessed as one R.C.E., and (ii) the R.C.E.s for all other Customers shall be based on the coefficients for the Northwest Regional Water Reclamation Facility set forth in Exhibit C to this Agreement. The Connection Charge for any Customer whose use is not listed in Exhibit C shall be established as provided in Section 6.3.B of this Agreement.

B. As of the Effective Date of this Agreement, the basic Connection Charge shall be established based on the coefficients for the Northwest Regional Water Reclamation Facility set forth in Exhibit C to this Agreement. The Connection Charge for any Customer whose use is not listed in Exhibit C shall be established pursuant to the Fox Lake Agreement. Notwithstanding the foregoing, for any Customer whose sewage flow materially exceeds the flow represented in an application for sewer connection, an additional Connection Charge shall be assessed in conformity with such actual flow and in an amount mutually agreed upon by Fox Lake and County pursuant to the Fox Lake Agreement.

C. Fox Lake may adjust its portion of the Connection Charges from time to time as the need arises after proper written notice is given to the County pursuant to the Fox Lake Agreement. Within seven (7) days of receiving notice of a connection charge adjustment from Fox Lake, the County will notify the Municipality of such adjustment and provide a copy of said notice to the Municipality. The Municipality has the right to object to the County to any such adjustment in writing within thirty (30) days of written notice. Upon actual receipt of notice of the Municipality's objection within such 30-day period, the County will notify Fox Lake, and Fox Lake and the County shall mutually agree to engage jointly a registered professional engineer and certified public accountant to undertake a rate study to determine an appropriate connection charge per R.C.E. for the Northwest Regional Water Reclamation Facility. Charges incurred by the County under Section 3.1.D of the Fox Lake Agreement as a result of an objection made by the Municipality under this Section 6.3.C must be reimbursed by the Municipality within thirty (30) days of written notice. In the event that such a Municipal Rate Study is performed, the County shall cooperate with the Municipality by providing to the Municipality, upon the Municipality's reasonable request, such County records as are germane to such rate study consistent with Section 6.6.A. Unless Fox Lake and the County otherwise agree, such rate study shall be completed within ninety (90) days after the commencement of such engagement, and the study shall consider the replacement, upgrading, and expansion costs for the Northwest Regional Water Reclamation Facility, but shall not include any administrative fee for Fox Lake respecting its operation and management of the Northwest Regional Water Reclamation Facility. The new Connection Charge determined thereby (and pursuant to Section 3.2.F of the Fox Lake Agreement) will be effective with respect to the Municipality beginning with the next applicable billing period commencing not less than fifteen (15) days or more than one hundred twenty (120) days after the completion of any such rate study.

6.4 **Sewer User Fees.**

A. **Flat Rate User Fees.** The parties acknowledge and agree that, under the Prior Sewage Agreement, Sewer User Fees were imposed on a flat-rate basis to approximate the relative use of Sanitary Sewer Service by Customers within the Municipal Service Area. Subject to the provisions of Section 6.4.B of this Agreement, the assessment of Sewer User Fees shall continue on a flat-rate basis as follows:

1. All Customers occupying dwelling units shall be deemed to utilize one (1) R.C.E. of Sanitary Sewer Service each month.

2. All Customers other than those occupying dwelling units shall be deemed to utilize Sanitary Sewer Service each month in accordance with the following calculation:

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

where the "Estimated P.E. of Customer" shall be based upon the "**Sewer Use Coefficients**" as established in Exhibit C, but if the Sewer Use Coefficients are not applicable to the Customer's proposed use, then the "Estimated P.E. of Customer" shall be based on the larger of either: (a) the estimate of P.E. reported in connection with any IEPA permit for such Customer; or (b) the standard P.E. coefficient as applied by the IEPA for persons having similar uses as the Customer. With respect to Sewer User Fees for non-metered customers, one R.C.E. shall be deemed to equal 7,500 gallons per month.

3. Pursuant to Section 6.7 of this Agreement, the County shall from time-to-time establish a flat rate fee per RCE of Sanitary Sewer Service (the "**RCE Rate**"). The monthly Sewer User Fee for each Customer shall be determined by multiplying the number of such Customer's RCEs (as established pursuant to Section 6.4.A.1 or 6.4.A.2) by the RCE Rate.

B. Transition to Volume-Based Sewer User Fees. The Municipality agrees to use its best efforts to convert from a flat-rate Sewer User Fee to a system under which Sewer User Fees are based on (i) the volume of the Sewage delivered to the County Sewerage System by the individual residential Customers, and (ii) on the volume, strength, and composition of the Sewage delivered to the County Sewerage System by the individual non-residential Customers. At such time as the County and Municipality mutually determine that the Municipality has sufficient means for measuring Sewage flows of all or a defined group of individual Customers, then the Municipality shall bill and collect from every Customer located within the Municipal Service Area (or such portion of the Municipal Service Area as the County and the Municipality may agree) Sewer User Fees based upon the actual volume, strength, and composition of Sewage delivered to the County Sewerage System from such Customer. The County shall be solely responsible for setting such Sewer User Fees, subject to the adjustment provisions in Section 6.7 of this Agreement.

6.5 Metering.

A. Individual Metering. To the extent that Sewer User Fees are billed and collected based upon actual volume, strength, and composition pursuant to Section 6.4.B of this Agreement, the County shall have the right to establish and enforce reasonable requirements for the Municipality and all Customers located within the Municipal Service Area for the installation, calibration, inspection, maintenance, repair, and replacement of meters to measure each Customer's Sewage or water use (as mutually agreed upon pursuant to Section 6.4.B) for the purpose of establishing and billing Sewer User Fees. Nothing in this Section 6.5 shall be deemed to limit the County's right to estimate any Customer's water consumption for the purpose of establishing and billing Sewer User Fees or to limit the County's ability to establish minimum periodic charges. Pursuant to the County Sewer Ordinances, the metered flow may be adjusted for such quantity of water usage that is reasonably estimated as not entering into the sanitary sewers by limiting the total metered flow for residential County Customers for the billing period from May through October in any year to the lesser of the actual metered amount or 110% of the metered water flow from the preceding billing period from November through April (the "**Summer User Credit**"). For any Customer that has a separate irrigation source or a separately metered irrigation system for its property, the actual meter reading for the Customer shall be used, exclusive of any meter reading for the irrigation system. The County may through its County

Sewer Ordinances reduce or eliminate the Summer User Credit for County Sewer User Fees.

B. System Wide Metering. At such time as the County and the Municipality mutually determine pursuant to Section 6.4.B, the Municipality shall, at its own expense, furnish, install, own, operate, and maintain Meters and related equipment of standard type for measuring all Sewage delivered by the Municipality to the County Sewerage System (or for measuring water consumption as a reflection of Sewage flows). Such Meters may be located at the premises of Customers or where the Municipality's connecting Sewers connect to the respective County interceptors. The County shall have access at all reasonable times to such Meters for inspection and examination. All calibration, adjustment, reading, and recording of such Meters shall be the Municipality's responsibility.

6.6 Reporting

A. Mutual Requirements. 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, connections, quantities of flow, permits, and any other records relating to Sanitary Sewage Service and fees and charges relating thereto dating back not less than seven years (the "**Recordkeeping Data**"). 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 for all reasonable requests for records.

B. Municipal Reporting. The Municipality shall provide to the County, on a quarterly basis, a report of all invoices issued to Customers after the Effective Date of this Agreement, with a history of payment by Customers. The report shall be in substantially the form shown in Exhibit D attached hereto, and shall include, without limitation, information regarding any interest payments required by Section 6.1.C, and such other information as may reasonably be requested from time to time by the County.

C. County Reporting. The County shall cause to be prepared annual financial statements of the County Northwest Sewerage System, which financial statements shall include at least the categories of information described in Exhibit E to this Agreement. The County shall provide to the Municipality a copy of such annual financial statements within thirty (30) days after their completion and acceptance by the County.

6.7 Adjustments to Fees and Charges

A. Level of Sewer User Fees. Sewer User Fees shall be uniform for all Customers receiving similar Sanitary Sewer Service within the County Sewerage System. Such Sewer User Fees shall at all times be set at levels designed to assure that County revenues from such Fees and available reserves will always be sufficient, when considered in light of any other moneys legally available for and applied to such purposes, (i) to provide adequate and proper levels of service; (ii) to pay the County's costs of maintenance, replacement, and operation; (iii) to pay the principal of, and premiums and interest on, bonds secured, in whole or in part, by the revenues of the County Sewerage System; (iv) to provide a reasonable depreciation fund; (v) to provide such other reserves and sinking funds as may be deemed necessary or desirable by the County for the payment of such bonds and for the replacement, extension, and improvement of the County Sewerage System; and (vi) to pay for sewer user fees due to Fox Lake under the Fox Lake Agreement for Treatment services (or for Treatment services as may be provided by another), which sewer user fee may include amounts provided for in Section 3.2.I of the Fox Lake Agreement.

B. Level of Connection Charges. The County may adjust Connection Charges for new Customers receiving Sanitary Sewer Services as may be deemed necessary or desirable by the County (or as required of the County under the Fox Lake Agreement or any similar agreement with a provider of Treatment services), provided that such Connection Charges shall at all times be uniform among Customers of the County Sewerage System receiving similar Sanitary Sewer Services.

C. Procedure for Adjusting Connection Charges and Sewer User Fees. Except as provided in Sections 6.3.C or 6.7.D of this Agreement relating to adjustments in Connection Charges and Sewer User Fees resulting from changes in such Charges or Fees associated with the Northwest Regional Water Reclamation Facility, at least 90 days prior to any adjustment in Connection Charges or Sewer User Fees, the County will notify the Municipality of its intent to adjust Connection Charges or Sewer User Fees (the "**Adjustment Notice**"), and provide therewith the rate studies, trend reports, or other supporting data relating to such adjustment, which studies, reports, or data shall be the most current available. The Adjustment Notice shall set forth, *inter alia*, the amount of the increase or decrease to the rates or charges, as well as the total of each adjusted rate or charge; such Adjustment Notice may be for a multi-year adjustment period. Within 45 days after the County delivers the Adjustment Notice to the Municipality, the Municipality may notify the County of any objection to or comment upon the rate studies, supporting data, or adjustment in Connection Charges or Sewer User Fees (the "**Municipality Response**"). In the event that there is a Municipality Response, the Parties shall make reasonable efforts to confer regarding the Municipality Response and endeavor to resolve any objection or address any comments set forth in the Municipality Response. In the event that the Parties are not able to resolve all objections or address all concerns that might be raised in a Municipality Response within 90 days after the delivery of the Adjustment Notice, the County may approve any such adjustment in Connection Charges or Sewer User Fees as the County determines to be necessary and appropriate; provided, however, that the Municipality reserves the right to pursue any remedy available by law with respect to any adjustment approved over the Municipality's objection. Any such adjustments in Connection Charges will not be effective until 60 days after the County approves such adjustment, nor will adjustments in Sewer User Fees be effective until the next applicable billing period commencing not less than fifteen (15) days nor more than one hundred twenty (120) days after the County approves such adjustment. Such adjustments may be made without the need for hearings.

D. Changes in Treatment Rates. Any adjustment in connection charges or sewer user fees required by Fox Lake in order to meet requirements of Northwest Regional Water Reclamation Facility shall be reflected in the amounts the County charges the Municipality for its Customers. Fox Lake may adjust its portion of the Sewer User Fees from time to time as the need arises after proper written notice is given to the County pursuant to the Fox Lake Agreement. Within seven (7) days of receiving notice of a sewer user fee adjustment from Fox Lake, the County will notify the Municipality of such adjustment along with any financial analysis. The Municipality has the right to object to the County to any such adjustment in writing within thirty (30) days of written notice. Upon actual receipt of notice of the Municipality's objection within such 30-day period, the County will notify Fox Lake, and Fox Lake and the County shall mutually agree to engage jointly a registered professional engineer and certified public accountant to undertake a rate study to determine an appropriate sewer user fee per R.C.E. for the Northwest Regional Water Reclamation Facility. Charges incurred by the County under 3.2.D of the Fox Lake Agreement as a result of an objection made by the Municipality under this Section 6.7.D must be reimbursed by the Municipality within thirty (30) days of written notice. Unless Fox Lake and the County otherwise agree, such rate study shall be completed within ninety (90) days after the commencement of such engagement, and the study shall consider the replacement, upgrading, and expansion costs for the Northwest Regional Water Reclamation Facility, but shall not include any administrative fee for Fox Lake respecting its operation and management of the Northwest Regional Water Reclamation Facility. The new Sewer User Fee determined thereby (and

pursuant to Section 3.2.F of the Fox Lake Agreement) will be effective with respect to the Municipality beginning with the next applicable billing period commencing not less than fifteen (15) days or more than one hundred twenty (120) days after the completion of any such rate study.

6.8 **Service Conditioned on Payment.**

Either the Municipality or any of its Customers may be denied issuance of a temporary or final sewer permit for any building, structure, or Customer within the Municipal Service Area in the event that all Connection Charges due to the County have not been paid to the Municipality. In addition, in the event that the Municipality fails to pay Connection Charges or Sewer User Fees as provided in this Agreement, the County may take steps to terminate Sanitary Sewer Service to the Municipality; provided, however, that no termination of service shall occur unless the Municipality fails to bring current its account with the County within 45 days after notice from the County regarding such failure to pay.

6.9 **Municipal Service Charges.**

Nothing in this Agreement shall limit the Municipality's discretion in establishing reasonable fees and rates related solely to the Municipal Sewage Collection System for its Customers, so long as such fees and rates are at all times sufficient to permit the Municipality to meet its obligations under this Agreement.

6.10 **Inflow/Infiltration Reduction.**

A. The Municipality and the County acknowledge and agree that Excessive Inflow/Infiltration from local sewage collection systems tributary to the County Sewerage System increases the cost of operating, and reduces the overall capacity and capability of, both the Northwest Regional Water Reclamation Facility and the County Sewerage System. The Municipality and the County acknowledge, however, that it may be more cost-effective to reduce the effects of Excessive Inflow/Infiltration through regional excessive flow detention facilities or similar mechanisms ("**Regional I/I Facilities**") as well as attainable local corrective measures. In order to create appropriate incentives for local corrective measures and appropriate means for undertaking regional excessive flow detention facilities to address problems that may be resulting from Excessive Inflow/Infiltration, the County and the Municipality agree to participate in and comply with the provisions for accommodating Inflow/Infiltration as set forth in Section 3.2.H of the Fox Lake Agreement. Nothing in this Agreement affirmatively requires the Municipality to eliminate all Inflow and Infiltration from the Municipal Sewage Collection System such that the quantity of Inflow and Infiltration does not constitute Excessive Inflow/Infiltration as defined herein.

B. The County acknowledges that the Municipality may propose for inclusion in the CMOM program under Section 3.2.H.3 of the Fox Lake Agreement objective standards by which the Municipality or any Wholesaler may attain a "safe harbor" against the imposition of a Local I/I Surcharge pursuant to said Section 3.2.H.3; the County agrees to give reasonable consideration to any such proposal, provided that such proposal shall be subject to the review and approval of the Wholesale Advisory Committee, the County, and Fox Lake.

C. As provided in Section 3.2.H.2(x) of the Fox Lake Agreement, any Regional I/I Surcharge shall be assessed upon all County Customers and Fox Lake Customers.

D. In accordance with Subsection 3.2.H.4 of the Fox Lake Agreement, any Local I/I Surcharge imposed under Subsection 3.2.H of the Fox Lake Agreement shall be accounted for separately from any other funds collected by the County, Fox Lake, the Municipality, or any other Wholesaler with a Surcharged System (as defined in Subsection 3.2.H.3 of the Fox Lake Agreement) and held during the Initial Surcharge Year (as defined as hereinafter defined) in a

fund designated for improvements to the Surcharged System (a "**Local Improvement Fund**") and shall be used as follows:

- (i) During the first year of incurring a Local I/I Surcharge (the "**Initial Surcharge Year**"), all Local I/I Surcharge revenues shall be deposited in a Local Improvement Fund to be administered by the Wholesale Advisory Committee. If the Wholesale Advisory Committee determines that a Surcharged System meets its Annual CMOM Investment (as defined in Subsection 3.2.H.3 of the Fox Lake Agreement) as prescribed for the Initial Surcharge Year, then: (a) the Local I/I Surcharge imposed upon the Surcharged System shall no longer be imposed after such determination; and (b) the Wholesale Advisory Committee shall make the Local Improvement Fund moneys available to the owner of the Surcharged System for use in making up deficiencies in its prior Annual CMOM Investment;
- (ii) If a Surcharged System fails to meet its Annual CMOM Investment as prescribed for the Initial Surcharge Year during the Initial Surcharge Year, then: (a) the Local I/I Surcharge shall continue to be imposed until the Wholesale Advisory Committee determines that a Surcharged System has met its Annual CMOM Investment as prescribed for any year after the Initial Surcharge Year; and (ii) all moneys in the Local Improvement Fund shall be transferred, and all future Local I/I Surcharge revenue shall be deposited, into the Regional Surcharge Fund (as defined in Subsection 3.2.H.2 of the Fox Lake Agreement) for a Regional I/I Facility as designated by the County and Fox Lake after consultation with the Wholesale Advisory Committee.

6.11 **Fox Lake Externality Fee.**

The Parties acknowledge that, pursuant to Section 3.2.I of the Fox Lake Agreement, Fox Lake may make certain transfers as an Externality Fee to be deposited and used in accordance with such Section 3.2.I. The Municipality acknowledges Fox Lake's entitlement to receive the Externality Fee as a fee for services rendered because Fox Lake disproportionately bears certain of the impacts and risks enumerated in the Fox Lake Agreement, agrees that the amount of the Externality Fee is fair and reasonable compensation to Fox Lake, and hereby waives and releases any and all objections and claims with respect to the Externality Fee, and the County agrees to hold harmless, defend, and indemnify the Municipality and its corporate authorities, elected and appointed officials, officers, employees, agents, representatives, and attorneys (collectively, the "**Indemnified Parties**"), from any and all claims (including losses, expenses, or liabilities) resulting from any third-party challenges to the Externality Fee.

ARTICLE VII

OWNERSHIP AND MAINTENANCE

7.1 **County Sewerage System.**

The County shall retain ownership of all Sewers and other facilities in the County Sewerage System that it now owns, or that it may in the future construct, or that it may in the future accept dedication of from the Municipality or any other person or entity. The County shall maintain and operate the County Sewerage System and shall bear all risk of loss or damage to each element of said System, all at its sole cost.

7.2 **Municipal Sewage Collection System.**

The Municipality shall retain ownership of all Sewers and related facilities in the Municipal Sewage Collection System that it now owns or that it may in the future construct, or that it may in the future accept dedication of from any person or entity, including but not limited to any future extensions thereto that are now located or that may be located within the Municipality. The Municipality shall maintain and operate the Municipal Sewage Collection System and shall bear all risk of loss or damage to said system, all at its sole cost.

ARTICLE VIII

FPA AMENDMENTS

8.1 **Joint Action.**

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

1. The County shall file, and the Municipality shall support, any application that may be required to amend the Illinois Water Quality Management Plan with respect to the development of the County Sewerage System consistent with this Agreement.
2. The Municipality shall file, and the County shall support, any application that may be required to amend the Illinois Water Quality Management Plan with respect to the development of the Municipal Sewage Collection System consistent with this Agreement.
3. Neither the Municipality nor the County shall file or support any application to amend, and the County and the Municipality shall undertake joint and cooperative action to oppose and object to any third-party petition to amend, the Illinois Water Quality Management Plan or the Areawide Water Quality Management Plan for Northeastern Illinois that would have the effect of preventing the Municipality and the County from providing Sanitary Sewer Service to the any lot, parcel, or tract within the Municipal Service Area, in the manner provided by this Agreement. For purposes of this Clause 8.1(3), joint and cooperative action shall include, without limitation, filing written objections, providing staff support, and retaining such attorneys and consultants as the parties mutually agree are necessary with respect to such objections. To the extent that the Municipality is authorized to seek alternative Sanitary Sewer Services pursuant to Section 3.3 of this Agreement, the Municipality may seek, and the County shall not object to, an FPA amendment to accommodate such alternative Sanitary Sewer Services.

8.2 **Exceptions.**

Nothing in Section 8.1 of this Agreement shall require the County or the Municipality to take any action that it is prohibited from taking, or to refrain from taking any action that it is required to take, pursuant to any agreement that such party approved by formal action of its corporate authorities prior to the Effective Date of this Agreement.

ARTICLE IX

OTHER CONTRACTS AND SERVICE

9.1 **County Rights.**

A. The County shall have the right to contract with other persons, natural or corporate, private or public, to perform services similar to those to be performed pursuant to this Agreement; provided, however, that nothing in this Agreement shall be construed to require the County to provide Sanitary Sewer Service to any area of the Municipality not located within the Municipal Service Area.

B. The County agrees that, should it enter into an agreement with other persons, natural or corporate private or public, to perform services similar to those to be performed pursuant to this Agreement within the Northwest Lake FPA (a "**Wholesale Agreement**") after the approval of this Agreement, that it shall provide a copy of such Wholesale Agreement to the Municipality. Within thirty (30) days of receipt of the Wholesale Agreement, the Municipality must notify the County of any provisions within such Wholesale Agreement that the Municipality believes are applicable to the Municipality and desirable to incorporate into this Agreement (a "**Requested Amendment**"). Such Requested Amendments identified on Exhibit F to this Agreement shall automatically be deemed incorporated into and made a part of this Agreement, unless, within thirty (30) days of receiving notice from the Municipality, the County shall notify the Municipality of any disagreement whether the Requested Amendments fall within the categories identified in Exhibit F. If the parties disagree over whether a Requested Amendment is within a category identified in Exhibit F, they shall meet to confer regarding the applicability or inapplicability of the Requested Amendment to the terms of service and obligations under this Agreement. In the absence of any objection to a Requested Amendment, or after determining that a Requested Amendment is appropriate following conferral, the Municipality and County shall prepare and execute or cause to be executed a written amendment to this Agreement to incorporate all applicable Requested Amendments without formal action of the corporate authorities of the County or the Municipality. For purposes of this Section 9.1.B only, the County Director of Public Works may bind the County and the Municipality's Manager may bind the Municipality. Should the County be a party to litigation, the outcome of which invalidates any provision of a Wholesale Agreement or the Fox Lake Agreement, the offending provision will be treated as a Requested Amendment and automatically be deemed incorporated into and made part of this Agreement.

9.2 **Municipal Acknowledgements.**

The Municipality acknowledges and agrees that: (i) the County's obligation to provide Sanitary Sewer Service to the Municipality arises from this Agreement (including Section 5.4.A); (ii) the County does not act or operate as a public or private utility; (iii) the County does not act or operate in a business or proprietary capacity in providing Sanitary Sewer Service to lots, tracts, parcels, or areas within the Municipal Service Area; (iv) the County does not by this Agreement, or its performance pursuant to this Agreement, hold itself out as offering to, and is under no obligation to, provide Sanitary Sewer Service to any lot, tract, parcel, or area other than lot, tracts, parcels, or areas located within the Municipal Service Area; (v) the County's obligation to provide Sanitary Sewer Service to lots, tracts, parcels, or areas within the Municipal Service Area is the sole contractual obligation set forth in this Agreement; and (vi) the County shall have no obligation to amend the terms of this Agreement, except as provided in 9.1.B above, including without limitation the boundaries of the Municipal Service Area.

9.3 **Other County Service.**

Nothing in this Agreement shall be construed or interpreted to prevent or limit the right of the County, or to require the consent of the Municipality, to provide Sanitary Sewer Service to parties other than the Municipality on such terms and conditions as the County may, in its sole discretion, determine to be appropriate, including, without limitation, Sanitary Sewer Service utilizing the County Sewerage System; provided, however, that the County shall not provide Sanitary Sewer Service within the Municipal Service Area except in accordance with the terms and conditions of this Agreement.

9.4 **No Third Party Beneficiaries.**

Nothing in this Agreement shall create, or be construed or interpreted to create, any third party beneficiary rights, except as expressly provided herein.

9.5 **Water Service.**

This Agreement does not pertain to public water supply service within the Municipality and shall not affect the rights or obligations of either the County or the Municipality with respect to such service within the Municipality.

ARTICLE X

LEGAL RELATIONSHIPS AND REQUIREMENTS

10.1 **Exhibits.**

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

10.2 **Entire Agreement; Supersedence of Prior Sewage Agreement.**

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

10.3 **Amendments.**

Except as expressly provided otherwise in this Agreement (and particularly as provided in Section 9.1.B), this Agreement shall not be modified, changed, altered, amended, or terminated without the written and duly authorized consent of the County and the Municipality.

10.4 **Waivers.**

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

10.5 **Interpretation and Severability.**

It is the intent of the County and the Municipality that this Agreement be construed and interpreted so as to preserve its validity and enforceability as a whole. In case of any conflict among the provisions of this Agreement, the provision that best promotes and reflects the intent of the parties shall control. If any provision of this Agreement is construed or held to be void, invalid, or unenforceable in any respect, the remaining provisions of this Agreement shall not be affected thereby but shall remain in full force and effect. In addition, the Parties acknowledge that each Party had the opportunity to seek review of this Agreement by counsel prior to its execution and therefore this Agreement shall be deemed to have been drafted mutually by the County and the Municipality.

10.6 **Regulatory Bodies.**

This Agreement shall be subject to all valid rules, regulations, and laws applicable hereto passed and promulgated by the United States of America, the State of Illinois, or any other governmental body or agency having lawful jurisdiction, or any authorized representative or agent of any of them; provided, however, that this Section 10.6 shall not be construed as waiving the right of any party to challenge the validity of any such rules, regulations, or laws on any basis, including the impairment of this Agreement. The County reserves the right to adopt ordinances, rules, and regulations governing the design, installation, and use of the County Sewerage System.

10.7 **Successors; Assignment.**

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

10.8 **Effective Date and Term.**

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

B. **Term.** This Agreement shall be in full force and effect from and after its Effective Date until July 26, 2030; except that the provisions of Section 5.4.A shall survive the termination of this Agreement.

10.9 **Notices.**

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

For notices and communications to the County:

County of Lake
18 North County Street
Waukegan, Illinois 60065

Attn: County Administrator

and

Lake County Department of Public Works
650 Winchester Road
Libertyville, Illinois 60046
Attn: Director of Public Works

For notices and communications to the Municipality:

Village of Round Lake Heights
619 W. Pontiac Ct.
Round Lake Heights, IL 60073
Attn: _____

By notice complying with the foregoing requirements of this Section 10.9, each party shall have the right to change the addressees or addresses or both for all future notices and communications to such party, but no notice of a change of address shall be effective until actually received.

10.10 **Execution in Counterparts.**

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

10.11 **Enforcement and Remedies.**

The parties hereto may in law or in equity enforce or compel the performance of this Agreement and shall otherwise have all remedies provided by applicable United States of America, State of Illinois, and local laws, ordinances, rules, and regulations, except that neither the Municipality nor the County shall seek or recover monetary damages against the other or any of the other's officials, agents, representatives, attorneys, or employees on account of the negotiation, execution, or breach of any of the terms and conditions of this Agreement. Enforcement actions to collect Connection Charges or Sewer User Fees due under this Agreement shall not be actions for monetary damages.

[SIGNATURES CONTINUE ON FOLLOWING PAGE.]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first written.

VILLAGE OF ROUND LAKE HEIGHTS

By: _____
Mayor

ATTEST:

Village Clerk

COUNTY OF LAKE

By: _____
Chairman, Lake County Board

ATTEST:

County Clerk

#11217478_v3

EXHIBIT A

Northwest Lake FPA

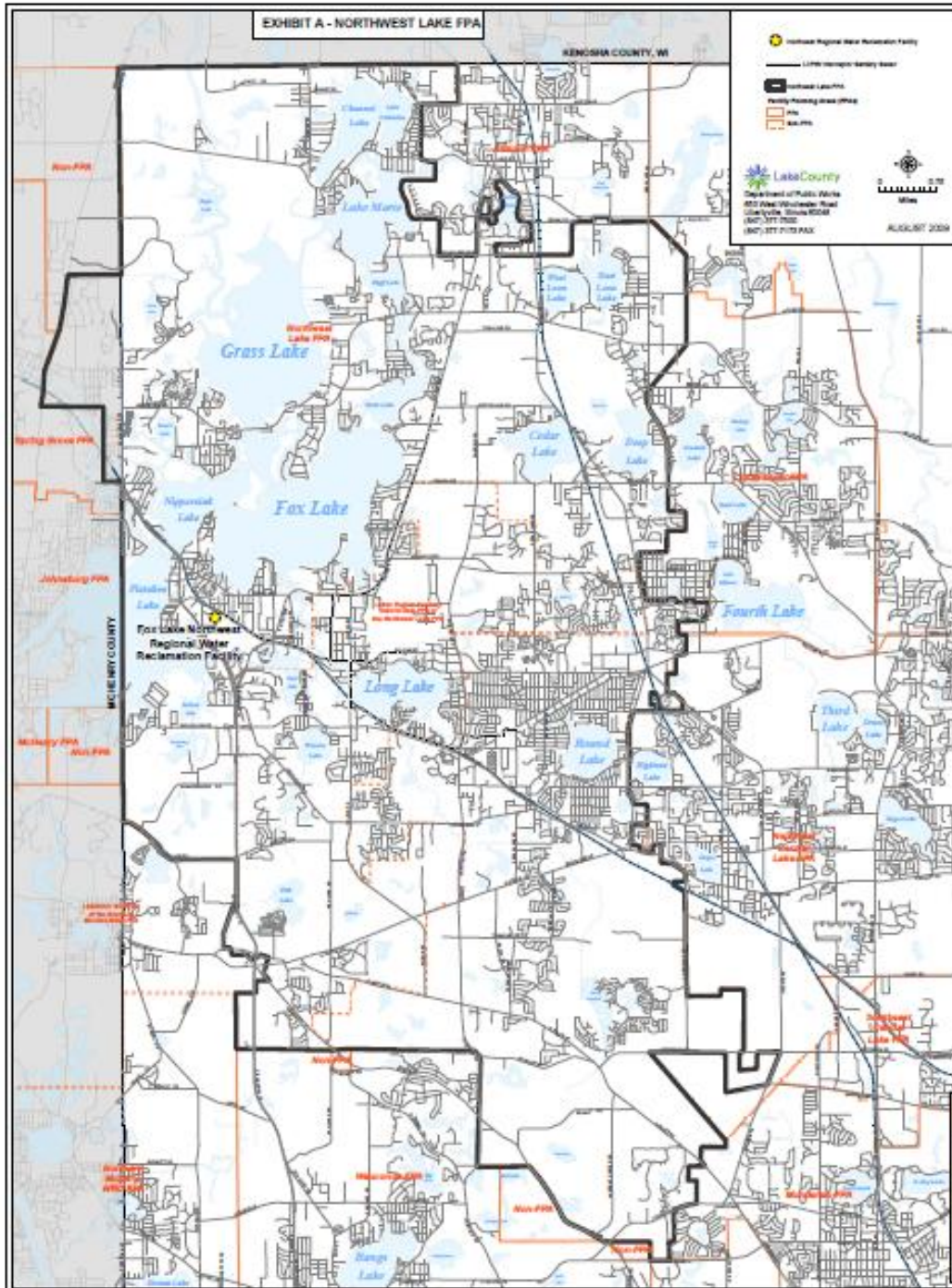


EXHIBIT B

Municipal Service Area

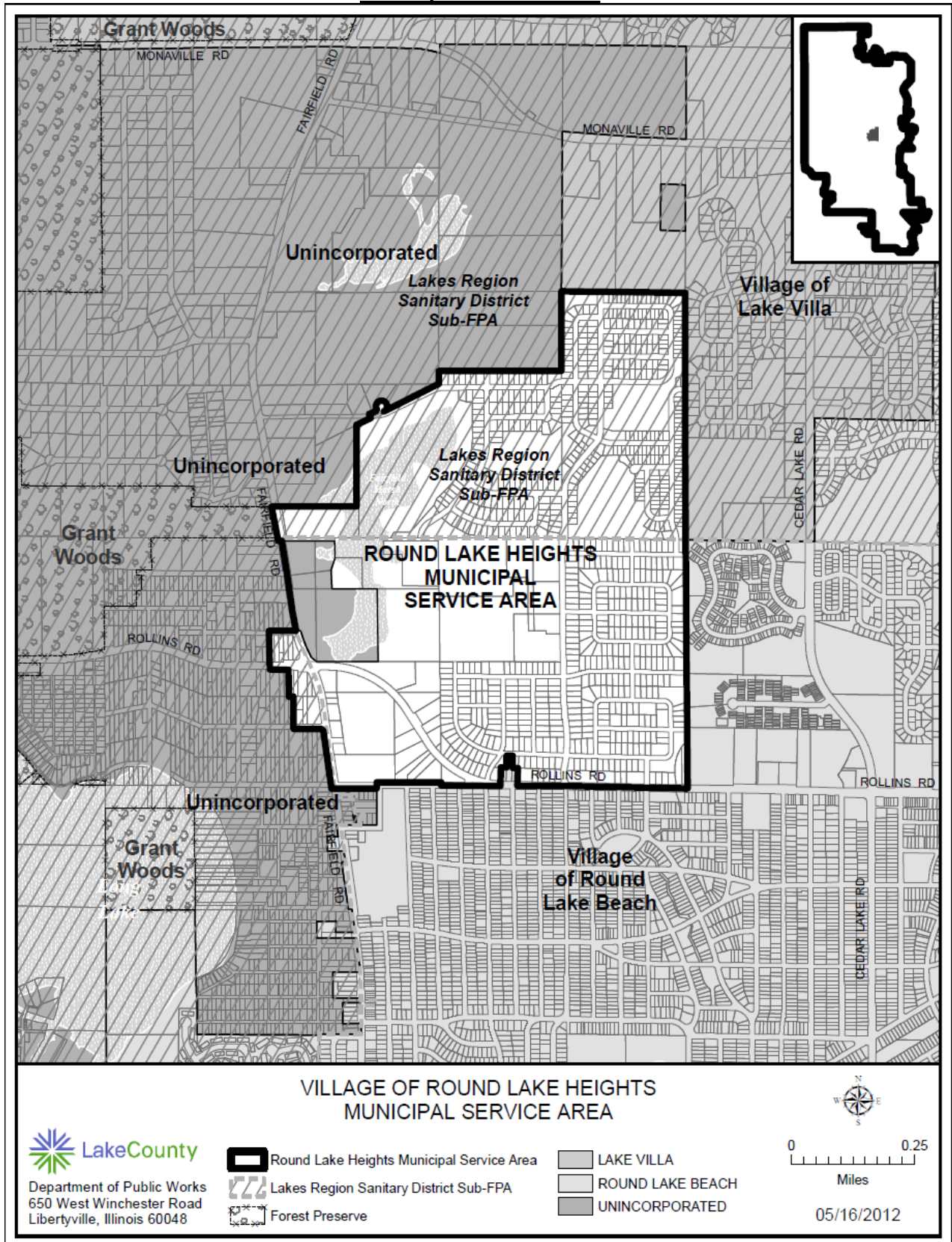


EXHIBIT C
Sewer Use Coefficients

Use	Coef.	GPD per
Auto Dealer	0.14	square ft
Bank	0.1	each
Barber Shop	54.6	barber chair
Beauty Shop	269	station
Bowling Alley	133	Alley
Bus - Rail Depot	3.33	square ft
Car Wash	4.78	square ft
Church	5	seat
College Residence	106	student
Dentist / Doctor	0.3	square ft
Fraternal Organization	0.3	square ft
Extended Stay - Motel Style	0.256	square ft
Extended Stay - 2 BR	250	unit
Extended Stay - 3 BR	250	unit
Firehouse	25	person per shift
Gas/Food w/o Car Wash	400	facility
Golf-Swim Clubs	0.5	square ft
Grocery	0.1	square ft
Hospitals	346	bed
Hotels	0.256	square ft
Institution 1 Bedroom	200	unit
Institution 2 Bedroom	250	unit
Jail & Prison	133	person
Laundromat	175	machine
Laundry	0.253	square ft
Medical Offices	0.3	square ft
Motel	0.256	square ft
Night Club / Tavern	1.33	person / capacity
Nursing Home	125	bed
Office, Large > 10,000 sf	0.1	square ft
- additional use	0.03	square ft mechanical space
- additional use	25	cafe seat
Office, Small ≤ 10,000 sf	0.1	square ft
Office, Old ¹	0.142	square ft
Pool outdoor	2.5	resident / member/patron
Professional Bldg	0.1	square ft
Restaurant, Drive-In	109	car stall
Restaurant, Non Chain	25	seat
Restaurant, Large Chain	2000	unit
Restaurant, Small Chain	625	unit
Retail > 100,000 sf	0.05	square ft
Retail ≤ 100,000 sf	0.10	square ft
School, High ²	5-7	student
School, Elementary ²	2.5 - 3.5	student
Service Station	0.251	inside square ft
Theaters	3.33	seat
Warehouses	0.025	square ft plus office
Health Club	0.5	square ft.

General Note: Connection fees will be based on numbers indicated here or some other agreed upon amount.

Footnote 1: Old Offices have not been modernized with modern water saving fixtures and may include toilet facilities that use greater than 1.6 gallons per flush.

Footnote 2: IEPA permits may require higher coefficients.

EXHIBIT E

Financial Statement Categories

OPERATING REVENUES

Wholesale sewer charges

TOTAL REVENUES

OPERATING EXPENSES

Personnel services

Salaries and wages

Pension- IMRF and social security

Total personnel services

Commodities

Office supplies and maintenance

Housekeeping supplies

Gasoline

Building and ground supplies

Operational supplies

Chemical supplies

Uniform

Medical supplies

Non capital equipment and Improvements

Miscellaneous

Total commodities

Contractual

Insurance

Employees' life, health and dental

Unemployment and worker's compensation

Miscellaneous benefits

Gas (utility)

Electricity

Telephone and telemetry

Wholesale sewerage treatment

Vehicle maintenance

Buildings and equipment maintenance

Equipment rental

Disposal service

Miscellaneous

Total contractual

Total operating expenses

Operating income-excluding depreciation

NON-OPERATING EXPENSES

Interest expense

Amortization of bond issuance costs

Total non-operating expenses

Income before contributions, transfers, and other items

ADJUSTMENTS

Capital contributions- connection fees

Capital expenditures

Forecasted annual improvement costs

NET INCREASE OR (DECREASE) TO RESERVE FUND

EXHIBIT F

Requested Amendment Categories

County Obligations to operate and maintain the County Sewerage System under Section 3.1
Process for waiving Municipal obligations under Section 3.2
Limited right to use other facilities under Section 3.3.B
Expansion request process under Section 3.3.B
Septic system regulations under Section 3.3
Other agreements and Laws under Section 3.4
Permitted extensions and enlargements, standards for extensions or enlargements, County obligations with respect to extension and enlargement, and expansion limitations under Section 4.2.A-D
Conditions and limitations under Section 5.1-5.3
Applicable charges and fees under Article VI, except: (i) any payment arrangements for existing balances due that are specific to a particular Wholesaler, and (ii) any fee reimbursements under 6.11.
FPA Amendments under Section 8.1(3)
Legal relationships and requirements in Article X