

RESTATED AND AMENDED
AGREEMENT FOR SEWAGE DISPOSAL
Entered Into By and Between
The County of Lake, Illinois
and
The City of Waukegan, Illinois
As of
_____, 2025

RESTATED AND AMENDED AGREEMENT FOR SEWAGE DISPOSAL

THIS AGREEMENT made and executed this ____ day of _____, 2025, between the CITY OF WAUKEGAN, 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 Northeast Central Lake FPA 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 has also entered into an agreement with the North Shore Water Reclamation District ("**NSWRD**") whereby the NSWRD will provide sewage treatment services for the County in the Northeast Central Lake FPA, subject to certain fees and conditions as outlined in the NSWRD Agreement.

4. The County and the Municipality have previously entered into an Agreement for Sewage Disposal, dated May 12, 1992, as amended (the "**Prior Sewage Agreement**").

5. In accordance with the Prior Sewage Agreement, the Municipality's sewer system is already delivering sewage from certain Municipality customers to the County's interceptor for the Northeast Central Lake FPA.

6. In order to ensure the ability to develop long-range plans for providing sewerage services for future development and redevelopment of its territory, the Municipality desires to enter into a restated and amended agreement to secure a long-term source for Sewage Treatment services. The NSWRD Treatment Plant is the most effective source for such Sewage Treatment services.

7. In order to conform with the terms and conditions under which continued Sewage Treatment services will be provided through the NSWRD Treatment Plant, the County and the Municipality desire to enter this restated and amended 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 Northeast Central Lake FPA for Treatment services via the NSWRD Treatment Plant, which restated and amended agreement

would supersede the Prior Sewage Agreement.

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

For purposes of this Agreement, the following terms shall have the meanings as set forth in this Article; provided, however, that, to the extent that the terms and provisions of the NSWRD Agreement compel an alternative or additional definition, such alternative or additional definition shall control or also apply, as appropriate.

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; provided, however, to the extent that the NSWRD Sewer Ordinance otherwise utilizes this term, the definition in the NSWRD Sewer Ordinance shall apply with respect to matters governed by the NSWRD Sewer Ordinance.

2.2 Categorical/Significant User.

An industrial and/or large commercial user [including without limitation those identified as Categorical Industrial Users (CIU's) or Significant Industrial Users (SIU's) under applicable State or federal regulations or under NSWRD Sewer Ordinances] or a non-domestic Customer that is either (i) subject to a Pretreatment program administered by the NSWRD, or (ii) charged on an individual rate basis for Flow, B.O.D. and SS pursuant to the NSWRD Agreement.

2.3 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.

2.4 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.

2.5 Connection Charges.

The charges from time-to-time imposed by the County on Customers who are newly connecting to the County Sewerage System as a condition of such connections, as well as any supplemental charges required pursuant to Section 6.11 of this Agreement relating to Customers who have previously connected to the County Sewerage System. In addition, Connection Charges include all costs to be paid by a Customer to the NSWRD in order to obtain a "District Connection Permit" as required under this Agreement and Section 3.1 of the NSWRD Agreement.

2.6 **County Interceptors.**

The system of Sanitary Sewer interceptors, and related facilities, as generally described in the Comprehensive Plan and tributary to the NSWRD Treatment Plant, 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 Northeast Central Lake FPA.

2.7 **County Northeast Central Service Area.**

The Northeast Central Lake FPA (the boundaries of which as of the Effective Date of this Agreement are depicted on Exhibit A).

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 Northeast Central Service Area to the NSWRD Treatment Plant 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 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 that discharges Sewage, either directly or indirectly, into the County Sewerage System.

2.11 **Effective Date.**

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

2.12 **Flow**

The volume of Sewage discharged into the County Sewerage System by a Customer, as measured by water usage, actual metering of Sewage, or other reasonable means.

2.13 **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, epidemics and pandemics, or other similar events or circumstances.

2.14 **Industrial Waste.**

Liquid and water-carried waste discharged by any non-residential Customer (including any Categorical/Significant Users).

2.15 **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 NSWRD Treatment Plant, or such greater multiple of the design average flow that may be authorized from time-to-time in the NPDES permit for the NSWRD Treatment Plant.

2.16 **Meter.**

Any device used to measure flow.

2.17 **Municipality.**

The City of Waukegan, a home rule municipal corporation of the State of Illinois, including all areas within its boundaries as they may from time to time exist.

2.18 **Municipal Service Area.**

The areas within the County Northeast Central Service Area commonly known as the Day Break Farm Subdivision, the Nickels & Dimes Farm Subdivision, the River Bend Subdivision, the River Glen Subdivision and the 71-Acre Area, all as identified and outlined on Exhibit B attached hereto and made a part hereof; provided, however, that in the event any portion of the area outlined on Exhibit B is annexed by a city or village other than the Municipality, such portion thus annexed shall be automatically deleted from the Municipal Service Area and shall no

longer be subject to this Agreement; and further provided that the Municipality shall not be entitled to deliver and the County shall not be required to accept sewage from the 71-Acre Area unless and until the entirety of such area is lawfully annexed by the Municipality.

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 **Northeast Central Lake FPA.**

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

2.21 **NSWRD.**

North Shore Water Reclamation District, a unit of local government of the State of Illinois.

2.22 **NSWRD Agreement.**

That certain 2015 agreement between the County and the NSWRD (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 NSWRD Treatment Plant.

2.23 **NSWRD Sewer Ordinance.**

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

2.24 **NSWRD Treatment Plant.**

The treatment plant, and related facilities, that the NSWRD owns and operates along the Des Plaines River in Gurnee, Illinois to which the County Interceptors are tributary, pursuant to the Comprehensive Plan, together with any additions to, or extensions of, such plant and facilities.

2.25 **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. Notwithstanding anything to the contrary in this Section 2.25, to the extent that the NSWRD Sewer Ordinance otherwise utilizes this term, the definition in the NSWRD Sewer Ordinance shall apply with respect to matters governed by the NSWRD Sewer Ordinance.

2.26 Pretreated Sewage.

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

2.27 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 NSWRD Agreement; provided, however, to the extent that the NSWRD Sewer Ordinance otherwise utilizes this term, the definition in the NSWRD Sewer Ordinance shall apply with respect to matters governed by the NSWRD Sewer Ordinance.

2.28 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.

2.29 Residential Customer Equivalent (R.C.E.).

A unit of measurement for purposes of imposing Connection Charges or assessing Sewer User Fees on 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.

Notwithstanding the foregoing sentence, to the extent that the NSWRD Sewer Ordinance defines this term differently for purposes of District Connection Permits or in connection with Sewer User Fees imposed by NSWRD, the usage in such circumstances shall be as set forth in the NSWRD Sewer Ordinance.

2.30 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; provided, however, to the extent that the NSWRD Sewer Ordinance otherwise utilizes this term, the definition in the NSWRD Sewer Ordinance shall apply with respect to matters governed by the NSWRD Sewer Ordinance.

2.31 **Sanitary Sewer.**

Any sewer that carries Sewage; provided, however, to the extent that the NSWRD Sewer Ordinance otherwise utilizes this term, the definition in the NSWRD Sewer Ordinance shall apply with respect to matters governed by the NSWRD Sewer Ordinance.

2.32 **Sanitary Sewer Service.**

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

2.33 **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 NSWRD Agreement; provided, however, to the extent that the NSWRD Sewer Ordinance otherwise utilizes this term, the definition in the NSWRD Sewer Ordinance shall apply with respect to matters governed by the NSWRD Sewer Ordinance.

2.34 **Sewer User Fee.**

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

2.35 **Suspended Solids (“SS”).**

Nonfilterable solids that either float on the surface of, or are in suspension in, Sewage or other liquids; provided, however, to the extent that the NSWRD Sewer Ordinance otherwise utilizes this term, the definition in the NSWRD Sewer Ordinance shall apply with respect to matters governed by the NSWRD Sewer Ordinance.

2.36 **Transport.**

The conveyance of Sewage from the point or points of discharge of the Municipal Sewage Collection System to the NSWRD Treatment Plant or to any other provider of Treatment service.

2.37 **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, state, NSWRD, and County requirements.

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 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 A2 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:

- a. 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; provided, however, that a request for such an expansion shall be a condition precedent to Municipality exercising the relief herein described; and
- b. the County's inability to provide Sanitary Sewer Service shall include:
 - i. a lack of capacity in, constraints upon service capabilities of, or existing commitments to capacity within the County Sewerage System or any portion thereof needed or useful to provide Sanitary Sewer Service for the Municipal Service

Area; or

- ii. conditions that would cause or require the County to expand or modify the County Sewerage System or any portion thereof, or otherwise expend funds or commit resources in order to provide the requested Sanitary Sewerage Service.

- 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 property or properties from which such additional amount of Sewage would be generated, (c) the time within which such additional Sanitary Sewer Service capacity is required, and (d) 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 from the property or properties in question (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 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 (and, to the extent applicable, in conformity with the Prior Sewage 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 unless there is no Sanitary Sewer within 300 feet of the property served by such septic system (or such greater distance as may be established by regulation of the Lake County Health Department). In addition, the County shall not have an obligation to Transport Sewage to the NSWRD Treatment Plant if treated by any other 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 agreement or 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 (including District Connection Permits); and
5. In cases where the County is required to execute a permit application to the Illinois Environmental Protection Agency ("**IEPA**"), submit to the County, for the County's review and approval, all preliminary and 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 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 Municipal Service Area shall not be expanded without the express written consent of the County; in assessing whether to consent to any such expansion, the County shall apply the standards set forth in its "Considerations and Principles Relating to Intergovernmental Agreements for Sewer and Amendments to Existing Agreements," a copy of which is attached hereto as Exhibit D (the "**Amendment Criteria**"). The County reserves the right to demand a new and separate service agreement (or an amendment to this Agreement) for any area served by an expansion of a Municipal Service Area.

ARTICLE V

CONDITIONS AND LIMITATIONS

5.1 Conditions Beyond County's Control.

The County shall not be responsible for any failure to perform (or any delay in the performance of) 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 NSWRD Agreement, (ii) the ability of the NSWRD Treatment Plant 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. Notwithstanding anything in this Agreement to the contrary, the County shall not be required to accept, and the Municipality shall not be entitled to collect or deliver to the County Sewerage System unless:
1. Such Sewage is from a subdivision, commonly known as the Day Break Farm Subdivision, as depicted on Exhibit B, consisting of 54 single family lots within the Municipality, which subdivision shall not have Sewage flows in excess of 189 P.E.; or
 2. Such Sewage is from a subdivision, commonly known as the Nickels & Dimes Farm Subdivision, as depicted on Exhibit B, consisting of 64 single family lots within the Municipality, which subdivision shall not have Sewage flows in excess of 224 P.E.; or
 3. Such Sewage is from a subdivision, commonly known as the River Bend Subdivision, as depicted on Exhibit B, consisting of 34 single family lots within the Municipality, which subdivision shall not have sewage flows in excess of 119 P.E.; or
 4. Such Sewage is from a subdivision, commonly known as the River Glen Subdivision, as depicted on Exhibit B, consisting of not more than 65 single-family homes within the Municipality, which subdivision shall not have sewage flows in excess of 227.5 P.E.; or
 5. Such Sewage is from the 71-Acre Area, as depicted on Exhibit B, consisting of not more than 136 single family homes within the Municipality, which shall not have sewage flows in excess of 476 P.E.
 6. The County's obligation to provide sewer service to the River Glen Subdivision and 71-Acre Area shall be further contingent and conditioned upon the Municipality taking all steps necessary to require the developer(s) to provide, in connection with the proposed development of both the River Glen Subdivision and 71-Acre Area, bike path connections to the Lake County Forest Preserve District River Trail.
- C. 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 of the County Sewerage System (or component parts thereof).
- D. 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 Northeast Central Service Area, including without limitation the NSWRD Agreement and those relating to Pretreatment and the management of fats, oils, and grease (as more fully detailed in Sections 5.4 and 5.5 of this Agreement). Except as otherwise required by federal or state law or the NSWRD 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 (i) the rules and regulations of the Illinois Environmental Protection Agency, (ii) the standards and requirements of the County's capacity, management, operations and maintenance program ("**CMOM**") as set forth in the County Sewer Ordinances (the current version being codified at Lake County Code § 53.07), and (iii) the provisions of this Agreement.

- E. 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, including the continued Treatment service from the NSWRD pursuant to the NSWRD Agreement.

5.4 **Pretreatment.**

A. **Pretreatment Program.** The NSWRD shall provide, manage, and operate a Pretreatment program for the control of Sanitary Sewage and Industrial Waste from the County Northeast Central Service Area to assure that all Sewage delivered to the NSWRD Treatment Plant from the Municipal Sewage Collection System and the County Sewerage System satisfies the Pretreatment standards, the requirements of the NSWRD Sewer Ordinance, and all other applicable federal, state, and local laws and regulations, and the provisions of this Agreement. (In the event that NSWRD fails or ceases to provide a Pretreatment program, the Municipality shall comply with the requirements of the County Sewer Ordinances for Pretreatment. The Pretreatment standards of the County Sewer Ordinances are currently codified in Chapter 54 of the Lake County Code.) The implementation of the Pretreatment program shall be without cost to the Municipality.

B. **Municipality Cooperation.** The Municipality shall reasonably cooperate with the County and NSWRD in the establishment and enforcement of a Pretreatment program serving the Municipal Sewage Collection System and its Customers. Such cooperation shall include without limitation the adoption of most recent pretreatment ordinances approved by the County Board and authorizing the agents, representatives, and inspectors of the County and NSWRD to have access to Customer's properties as may be necessary from time-to-time for the purpose of enforcing the ordinances aforesaid, including without limitation ordinances authorizing the County or NSWRD to bring suit to collect all charges, or to terminate sewer and/or water services as may be necessary for the purpose of enforcement and for the purpose of protecting and preserving the environment.

C. **Pretreatment Charges.** For all Customers (including without limitation Categorical and Significant Users) of the Municipality that are identified as being subject to the Pretreatment program, NSWRD or the County may impose Pretreatment surcharges as well as fines and penalties for violations of Pretreatment standards, and each such Customer shall be solely responsible for the payment of invoices for any such surcharges, fines, and penalties relating to the Pretreatment program, whether invoices or other notices therefor are rendered by the County or NSWRD. The Pretreatment surcharges for Customers of the Municipality shall be comparable to similar surcharges imposed upon similarly situated Customers of the County.

5.5 **Fats, Oils, and Grease Regulations.**

The County shall provide, manage, and operate a fats, oils, and grease program (the "**FOG Program**") to ensure compliance with the minimum standards set forth in the County Sewer Ordinances (the current version being codified at Lake County Code § 53.09) (the "**Fats, Oils, and Grease Rules**"). The purpose of the FOG Program is to ensure that any food processing, food sales, or food service establishment or user, that is connected to, or applying to connect to, the County Sewerage System (whether directly or indirectly) will comply with the Fats, Oils, and Grease Rules. The Municipality shall reasonably cooperate with the County in the enforcement of the FOG Program serving the Municipal Sewage Collection System and its Customers. Such cooperation shall include, without limitation, the following:

- A. The development and implementation by the Municipality of its own FOG program in conformity with the Fats, Oils, and Grease Rules (which program can be modeled after the County's FOG program), as well as the compilation of the action(s) taken pursuant to such Municipality program as part of the Municipality's annual CMOM report;
- B. The adoption of ordinances or associated agreements authorizing the County and its agents, representatives, and inspectors to have access to Customer's properties as may be necessary from time-to-time for the purpose of enforcing the FOG Program, and
- C. The adoption of ordinances or associated agreements authorizing the County to bring suit to collect all charges, to terminate Sanitary Sewer Service, cause the termination of water services, or any combination of the foregoing, as may be necessary for the purpose of enforcement of the FOG Program.

To the extent that the NSWRD implements a FOG Program, upon notification from the County, the Municipality shall cooperate with NSWRD in a manner consistent with the requirements of this Section 5.5 as they related to the County FOG Program, and all Customers within the Municipal Service Area shall comply with, and be subject to, the terms and requirements of such FOG Program of the NSWRD.

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 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 to the County within thirty-five (35) days after such connection is authorized or effected (whichever first occurs). In addition, the Municipality shall require all Customers to obtain a District Connection Permit from NSWRD in accordance with the requirements of Section 3.1 of the NSWRD Agreement prior to making any connection to the Municipal Sewage Collection System or the County Sewerage System.

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 NSWRD Treatment Plant 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. The Municipality acknowledges and agrees that the County may make such records available to NSWRD, and that the County may designate representatives of NSWRD as its designee for purposes of accessing records of the Municipality.

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 to the County. The Municipality shall not issue any sewer permits until the Municipality has collected the Connection Charges due to the County and the NSWRD Treatment Plant [including without limitation receipt of copies of the District Connection Permit for the Customer(s) in question]. To the extent applicable, the Municipality shall shut off water and/or sanitary sewer service to properties within the Municipal Service Area with delinquent accounts (including delinquent Connection Charges or Supplemental Connection Charges, whether due to the County or NSWRD); provided, however, that any shut-off of a Customer's services shall require a written notice from the County to the Municipality, after which the Municipality shall follow the procedures set forth in the Municipality's codes, ordinances, or policies relating to a Customer's non-payment of invoices due to the Municipality.

E. Pursuant to the NSWRD Agreement, a portion of the Connection Charges and Sewer User Fees that the County may impose from time to time will be the connection charges or the sewer user fees of NSWRD relating to a Customer's use of the NSWRD Treatment Plant. The Municipality is required to pay the entire Connection Charge or Sewer User Fee that is due, including the NSWRD component of such charge or fee, except to the extent that: (1) NSWRD has either collected the applicable fees for a District Connection Permit; or (2) NSWRD directly bills Customers within the Municipal Service Area (including without limitation Categorical or Significant Users, Customers enrolled in the NSWRD's Pretreatment program, and Customers participating in the NSWRD FOG Program).

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. The Connection Charges paid by a Customer pursuant to this Section 6.2 shall be subject to supplementation in accordance with

Section 6.11 of this Agreement. To the extent that NSWRD designates the County to collect the required Connection Charges for a District Connection Permit, such Connection Charges shall be in the amount and subject to the terms and conditions established from time-to-time by the NSWRD.

6.3 **Basis for Determining Connection Charges.**

A. Connection Charges imposed by the County (and exclusive of Connection Charges due to NSWRD for a District Connection Permit) 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 non-residential Customers within the Northeast Central Lake FPA established or otherwise set forth from time-to-time by the County's Director of Public Works or the Director's designee (the "**Current Sewer Coefficients**").

B. As of the Effective Date of this Agreement, the basic Connection Charge shall be established based on the Current Sewer Coefficients. The Connection Charge for any Customer whose use is not listed in or otherwise calculable from the Current Sewer Coefficients shall be established pursuant to the NSWRD 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 NSWRD and County pursuant to the NSWRD Agreement.

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:

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

where the "Estimated P.E. of Customer" shall be based upon the Current Sewer Coefficients, but if the Current Sewer Coefficients are not applicable to the Customer's proposed use, then the "Estimated P.E. of Customer" shall be based on the larger of either: (a) the estimate of P.E. reported in connection with any IEPA permit for such Customer; or (b) the standard P.E. coefficient as applied by the IEPA for persons having similar uses as the Customer. 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 R.C.E. of Sanitary Sewer Service (the "**R.C.E. Rate**"). The monthly Sewer User Fee for each Customer shall be determined by multiplying the number of such Customer's R.C.E.s (as established pursuant to Section 6.4.A.1 or 6.4.A.2) by the R.C.E. 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 the volume, strength, and composition of the Sewage delivered to the County Sewerage System by the individual 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 (or as otherwise required under the NSWRD Agreement), 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. Following a determination by the parties to bill and collect Sewer User Fees 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. Subject to and following an agreement of the County and the Municipality 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.

- C. Data Sharing. To the extent the County provides water service to

Customers within the Municipal Service Area ("**County Water Customers**") and maintains water meter reading data on such County Water Customers, the County agrees to provide such data to the Municipality within fifteen (15) days after such data is collected. Should any County Water Customer fail to pay Sewer User Fees for two or more consecutive billing cycles, the County agrees to coordinate with the Municipality to shut off water service to the County Water Customer, subject to applicable law and the payment to the County of all applicable water shut-off fees.

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 E 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. To the extent that the County requests other information that is not reflected on the form attached hereto as Exhibit E, the County may in its discretion modify the form of Exhibit E to reflect such other information, and the Municipality shall utilize such modified form within 60 days after the County shall have delivered such modified form.

C. **County Reporting.** The County shall cause to be prepared annual financial statements of the County Northeast Central 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 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, repair, 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 NSWRD under the NSWRD Agreement for Treatment services (or for Treatment services as may be provided by another), which sewer user fee may include any amounts provided for in Section 3.2 of the NSWRD 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 NSWRD 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. Nothing in this Section shall affect the amounts imposed by NSWRD for a District Connection Permit, which amounts shall be set in the sole discretion of NSWRD.

C. Procedure for Adjusting Connection Charges and Sewer User Fees. Except as provided in Sections 6.7.D of this Agreement, 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, but the County will provide notice to the Municipality at least 7 days prior to any County Board meeting where adjustments to County Connection Charges or Sewer User Fees are being considered.

D. Changes in Treatment Rates. Any adjustment in connection charges or sewer user fees required by NSWRD in order to meet requirements of NSWRD Treatment Plant shall be reflected in the amounts the County charges to the Municipality for its Customers. The Parties acknowledge and agree that NSWRD may adjust its Connection Charges, its costs for a District Connection Permit, and its portion of the Sewer User Fees from time to time as the need arises in its legislative discretion, subject to notice to the County pursuant to the NSWRD Agreement. Following any notice from NSWRD regarding adjustments in NSWRD's portion of the Sewer User Fees, the County shall promptly notify the Municipality, and such adjustment in the NSWRD's portion of the Sewer User Fees shall be reflected in the Municipality's payments to the County based upon the effective date of such adjusted NSWRD Sewer User Fees under the NSWRD Agreement.

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, notwithstanding the issuance of any District Connection Permit or permits or approvals of the IEPA. 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 (or suspend new connections for Sanitary Sewer Service within) the Municipality; provided, however, that no termination or suspension 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 NSWRD Treatment Plant 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 this Section 6.10. Nothing in this Agreement affirmatively requires the Municipality to eliminate all Inflow and Infiltration from the Municipal Sewage Collection System, so long as the quantity of Inflow and Infiltration does not constitute Excessive Inflow/Infiltration as defined herein.

B. CMOM Programs. The County shall employ or engage qualified engineers in connection with the development, maintenance, and operations of its facilities within the County Northeast Central Service Area, and it shall also comply with applicable CMOM regulations as may be required by the County Sewer Ordinances or other applicable laws. The Municipality shall also comply with the CMOM requirements of the County Sewer Ordinances (and, to the extent applicable, the NSWRD Sewer Ordinance).

C. Establish Local I/I Surcharge. Consistent with the provisions of CMOM, the County may periodically establish a system-specific minimum investment level needed for maintenance and repair of any local sewage collection system (including the Municipal Sewage Collection System) tributary to the County Sewerage System to control Excessive Inflow/Infiltration (the "**Annual System Investment**"), and the local sewage collection system operators will be required to report annually about the activities undertaken to improve their local sewerage systems, periodic monitoring activities and results, and the amounts expended therefor. To the extent that the owner or operator of such a local sewage collection system fails either (i) to make the requisite Annual System Investment in its local sewage collection system, or (ii) to the extent that the Excessive Inflow/Infiltration from any such local sewage collection system substantially exceeds any Inflow/Infiltration objectives that may be established by the County in accordance with the County Sewer Ordinances, the County shall quantify the additional cost that such Excessive Inflow/Infiltration imposes annually on the County Sewerage System (the "**Excessive I/I Non-Compliance Cost**"), and an additional special user fee shall be imposed upon all Customers being served by such local sewage collection system (the "**Surcharged System**") at a rate that will yield the Excessive I/I Non-Compliance Cost over the course of a year (the "**Local I/I Surcharge**"), notwithstanding that such Local I/I Surcharge results in non-uniform Sewer User Fees among County Customers.

D. Administration. In accordance with Section 6.10.C of this Agreement, any Local I/I Surcharge imposed thereunder shall be accounted for separately from any other funds collected by the County, the Municipality, or any other municipality with a Surcharged System (as defined in Section 6.10.C) and held during the Initial Surcharge Year (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 County. If the County determines that a Surcharged System meets its Annual System Investment

(as defined in Section 6.10.C of this 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 County 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 System Investment;

- (ii) If a Surcharged System fails to meet its Annual System 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 County determines that a Surcharged System has met its Annual System 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 a regional surcharge fund to be established and maintained by the County for any projects designed to reduce Excessive Inflow/Infiltration within the County Northeast Central Service Area (including Regional I/I Facilities), as designated by the County.

E. CMOM and Excessive I/I Standards. The County acknowledges that the Municipality may propose for inclusion in the CMOM program under the County Sewer Ordinances objective standards by which the Municipality (or any other municipality with a local sewerage system within the County Northeast Central Service Area) may attain a "safe harbor" against the imposition of a Local I/I Surcharge pursuant to this Section 6.10; the County agrees to give reasonable consideration to any such proposal, provided that such proposal shall be subject to the approval of the County.

F. Additional Compliance Option. In order to ensure compliance with CMOM objectives, the County may require a Surcharged System to install meters of sewage actually delivered to the County Sewerage System, in which case the amount of actual Sewage delivered to the County Sewerage System shall be the basis for any Sewer User Fees due from such Surcharged System.

6.11 Supplemental Connection Fees.

Notwithstanding the fact that a Customer has previously paid a Connection Charge or obtained a District Connection Permit, the County reserves the right to impose a "**Supplemental Connection Fee**" upon such Customer in accordance with regulations of the IEPA, the NSWRD Agreement, or the County Sewer Ordinances applicable to Customers located within the County Northeast Central Service Area, including without limitation in the following instances:

- (i) If a sewer connection application submitted by or on behalf of a Customer to either the Municipality, the NSWRD, or the County does not accurately reflect the use, size, or P.E. of such Customer, such Customer shall pay the County (and, to the extent applicable, NSWRD) a Supplemental Connection Fee based upon the difference in P.E. between (a) the P.E. that should have been the basis for the original Connection Charge (or District Connection Permit charge) if the application for sewer connection had been accurate, and (b) the P.E. used to calculate the original Connection Charge (or District Connection Permit charge); or

- (ii) if a Customer's actual Sewage P.E. exceeds the Sewage P.E. set forth in the permit application for such Customer by more than 15 P.E. (unless such Customer promptly implements measure to effectively reduce its P.E. after notice from the County or NSWRD), then such Customer shall pay the County and NSWRD a Supplemental Connection Fee based upon the difference in P.E. between (a) the permitted P.E. employed in the permit application for such Customer, and (b) the actual Sewage P.E. discharged by the Customer.
- (iii) Upon any new, modified, expanded, or changed use of the site of any Customer (other than a Customer whose use is a detached single-family residence), the Municipality and such Customer shall promptly notify the County, and the County shall determine whether the Sewage P.E., permitted and/or actual, from such Customer is consistent with the Connection Charge previously paid and permitted for the site from which such Customer operates. If not, Supplemental Connection Fees shall be assessed by the County and NSWRD against such Customer based on such new, modified, expanded, or changed use of the Customer's site in accordance with the County Sewer Ordinances and the NSWRD Sewer Ordinance in effect at the time of such determination.

The Supplemental Connection Fee shall be based on the Connection Charges in effect at the time of payment of such Supplemental Connection Fee. Any Customer who fails either to reduce its discharge or modify its use of the site to be in conformance with the paid and permitted P.E. or to pay a Supplemental Connection Fee under this Section 6.11 shall have no right to continued Sanitary Sewer Service from the County, and the Parties agree to take (or cause to be taken) progressive enforcement action against such Customer for such failure, which enforcement may include termination of the Customer's water and/or sewer service for non-compliance.

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 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.

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.

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.

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; (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 (or any other agreement), 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.

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 E 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. In addition, this Agreement is intended to supersede and render of no further force or effect the Prior Sewage Agreement (including all amendments thereto).

10.3 **Amendments.**

Except as expressly provided otherwise in this Agreement, this Agreement shall not be modified, changed, altered, amended, or terminated without the written and duly authorized consent of the County and the 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 for a period of 20 years from and after its Effective Date.

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

- i. Continue to provide Sanitary Sewer Service to such Customers pursuant to such terms as may be set forth in the County Sewer Ordinances;
- ii. Continue to provide Sanitary Sewer Service in accordance with the terms of this Agreement, except with respect to the connection of new Customers to the County Sewerage System and the setting of Connection Fees and Sewer User Fees; or
- iii. Terminate Sanitary Sewer Service to Customers within the Municipal Service Areas upon 360 days' notice.

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 60048
Attn: Director of Public Works

For notices and communications to the Municipality:

City of Waukegan
100 N Martin Luther King Jr Avenue
Waukegan, Illinois 60085
Attn: Mayor

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.

CITY OF WAUKEGAN

By: _____
Mayor

ATTEST:

City Clerk

COUNTY OF LAKE

By: _____
Chair, Lake County Board

ATTEST:

County Clerk

EXHIBIT A

County Northeast Central Service Area

Exhibit A
Northeast Central Lake FPA

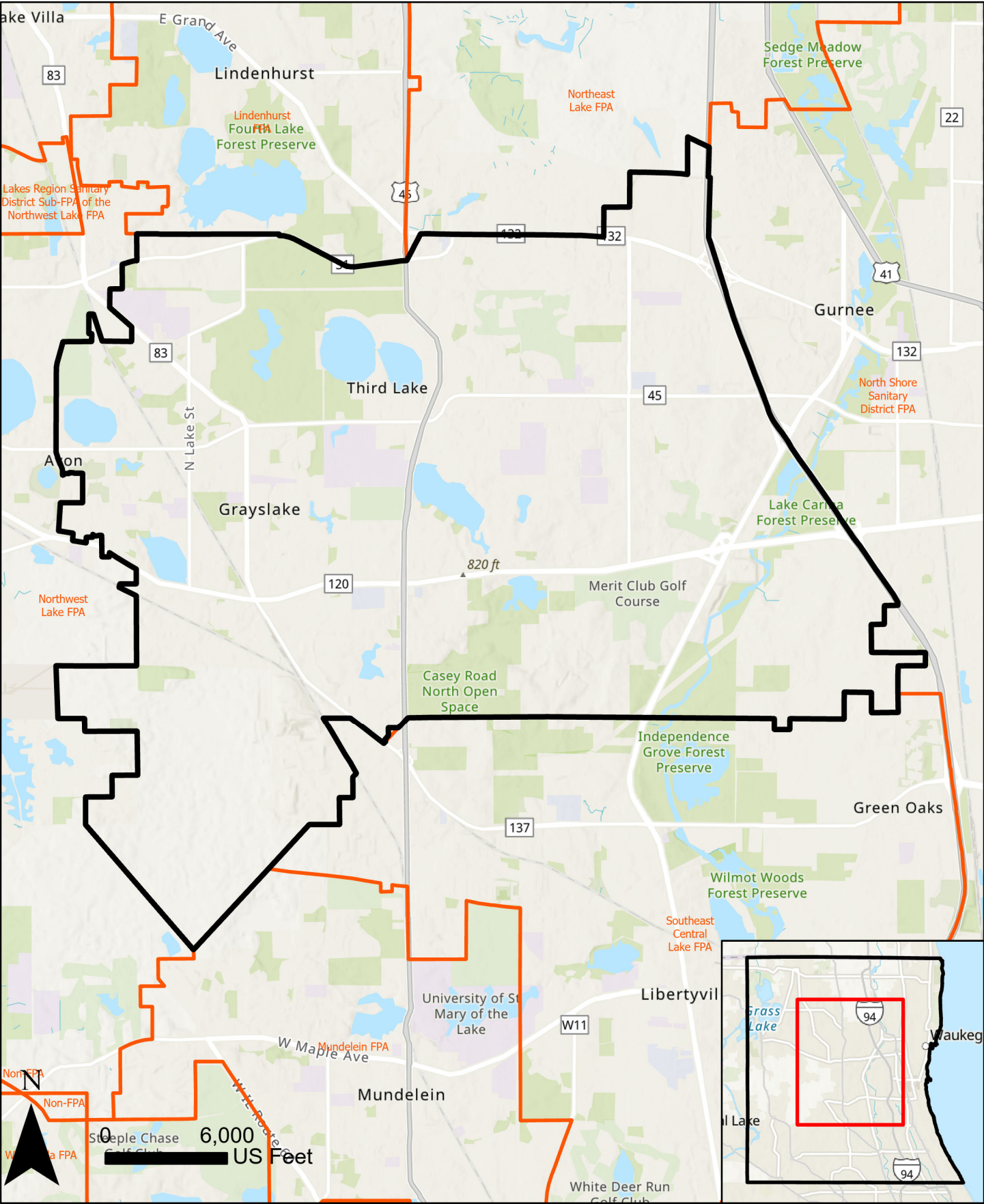


EXHIBIT B
Municipal Service Area

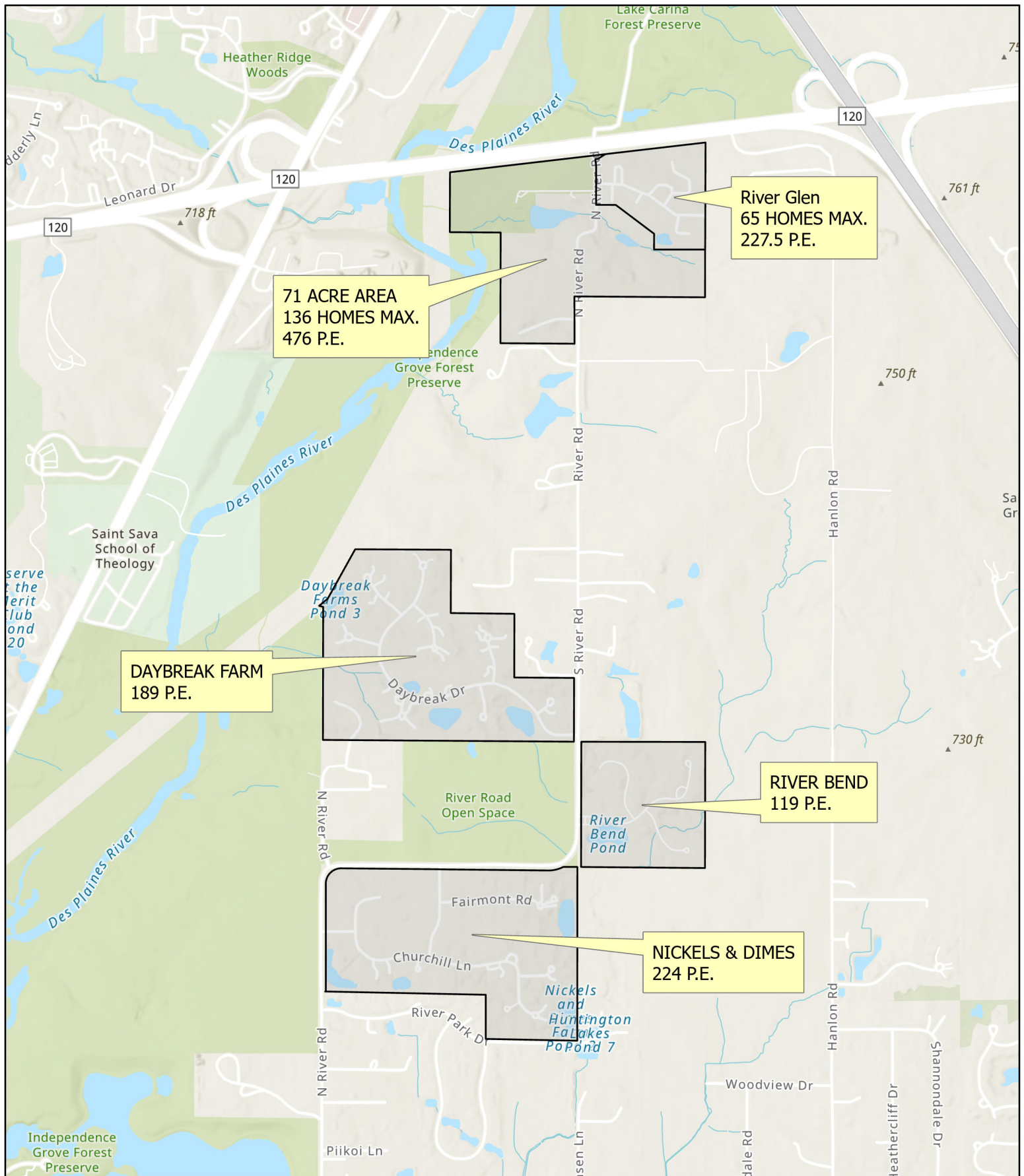


EXHIBIT C

City of Waukegan Current Service Area PE's

Exhibit C

City of Waukegan Current Service Area PE's

Area Name	ACRES	Homes	Total PE	Notes
River Glen		65	227.5	Residential lots
River Bend		34	119.0	Residential lots
Large Amended Area	71	136	476.0	Residential lots
Daybreak Farm		54	189.0	Residential lots
Nickels & Dimes		64	224.0	Residential lots

Total: 1,235.5

EXHIBIT D

Considerations and Principles Relating to Intergovernmental Agreements for Sewer and Amendments to Existing Agreements

1. Background:

- a. The County is a regional government.
- b. County decisions often have regional effects that should be evaluated.
- c. In addition, as the primary regional government in Lake County, the County has an interest in encouraging intergovernmental cooperation, where possible.

2. Decision-Making Process:

As a regional government, the County must ultimately exercise its legislative discretion in determining what it believes is best for the County and its residents as a whole. Such discretion often requires the County to balance competing interests, and in doing so, the County's decision-making process involves:

- a. Evaluation: To weigh the potential impact decisions will have on other governmental entities, the County should evaluate the impacts upon affected communities. Decisions should be made by giving due consideration to the direct and indirect effects of such decisions, including the totality of the benefits and impacts of the decision on affected governmental entities.
- b. Framework Plan: Decisions should be made with due consideration to the objectives of the County's Framework Plan.

3. Factors to Be Assessed Relating to Sewer Service Decisions:

The County is not a public utility, but it provides certain public services with the goal of enhancing the well-being of all Lake County residents. This goal is ordinarily achieved through the use of regional publicly owned wastewater treatment facilities. In decisions related to sewer service, the County should evaluate both direct and indirect effects from both a policy and practical perspective. The following factors, which are considerations and not strict requirements, include without limitation:

- Consistency with the Framework Plan
- Consistency with relevant municipal plans
- Available and committed capacity of system
- Impact on County roads and other services
- An applicant's reasons for preferring one solution over another, and reasons for that preference
- Impact on other affected public bodies
- Fiscal and related benefits
- Level of support/opposition to proposal
- Specific environmental concerns
- Alternative proposals put forth by an applicant or governmental entity

- a. Trying to coordinate the concerns of affected governments is important to achieving

the wise investment of public resources. This is increasingly important as development spreads throughout the County, because the actions of one community are more likely to affect other communities.

- b. To better ensure that decisions are made based on understandable parameters, sewer service agreements and amendments to such agreements should ordinarily be based on specific limitations on the County's obligations to provide such services. Those limitations should be expressed in terms of capacity and, when appropriate, the nature of the development to be served. In addition, amendments to existing sewer service agreements should ordinarily be considered in the context of specific developments to be served.
- c. Although past practices are important, the considerations and effects of sewer decisions are ever-evolving and cannot be made based on static models of precedent.

Approved by PWT Committee Action on December 2, 2015.

EXHIBIT E

LAKE COUNTY: SEWER USAGE & FEE SUMMARY REPORT

Invoice Date: Village or Agency: Amount Paid: Check #:
 Billing Period: to
 Population Served: -

Service Area	Number of Accounts				Usage (in 1000 GL/RCE)				County Sewer Rate	Extension Amount due to Lake County
	Previous Accts	RCE	New Additions* Accts	RCE	Current Total Accts	RCE	Total	Water Consumption Summer	Sewer	
SEWER CHARGES:										
Residential - Single Unit										\$0.00
Residential - Multi Units										\$0.00
Residential - Flat Rate										\$0.00
Commercial										\$0.00
Commercial - Flat Rate										\$0.00
Industrial										\$0.00
TOTAL	-	-	-	-	-	-	-			\$0.00
TOTAL CHARGES										\$0.00

Report prepared by:
 Phone:
 Date:

*For all new accounts, please attach a detail report

Lake County Public Works
 650 West Winchester Road
 Libertyville IL 60048-1391
Finance Manager Phone: 847.377.7138
 Fax: 847.377.7173
 Email: pwfinancedivision@lakecountyil.gov

EXHIBIT F

Financial Statement Categories

Operating Revenues

- User Charges
- Connection Charges
- Inspection Fees
- Revenue from Other Sources

TOTAL REVENUES

Operating Expenses

- Salaries, Payroll, and Related Personnel Expenses
- Expenses: Office Supplies, Equipment, Furnishings
- Building Operation and Maintenance Expenses
- Chemical Supplies
- Laboratory Supplies
- Rolling Stock and Equipment Operating and Maintenance Expenses
- Capital Expenses for Rolling Stock and Equipment
- Miscellaneous Commodity Expenses
- Consultant Services
- Software and Data Processing Maintenance
- Laboratory Fees
- Training/Continuing Education Expenses
- Pest Control
- Garbage Disposal
- Security Services
- Biosolids Management
- Telecommunication and Data Services
- Building and Storage
- Sewage Collection and Transport Facilities Construction, Repair, and Replacement Expenses
- Sewage Collection, Retention, and Transport Facilities Operation and Maintenance Expenses
- Transmission and Disposal Fees and Charges
- Wells, Water Storage Tank Operation and Maintenance Expenses
- All Other Maintenance
- Equipment Rental
- All Other Fees
- Wholesale Sewerage T
- Meter Reading Service
- Testing and Inspecting
- H/L/D Employee Benefit
- Retirement Benefits/

- Auditing And Accounting
- Financial Services
- Bio Hazard Waste Disposal
- Publications & Legal Notices
- Insurance
- Temporary Employment Services
- Indirect Cost Allocations
- Revenue Bond Issue Costs
- Loss on Revenue Bonds Refunding
- Principal Payments
- Interest Payments
- Depreciation Expense

TOTAL EXPENSES

(Surplus) or Deficit

4858-7920-2688, v. 6