

**FIFTH AMENDMENT TO RESTATED AND AMENDED AGREEMENT  
FOR SEWAGE DISPOSAL**  
(County of Lake, Illinois, and Village of Grayslake, Illinois)

THIS FIFTH AMENDMENT TO RESTATED AND AMENDED AGREEMENT FOR SEWAGE DISPOSAL (“Fifth Amendment”), is entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between the COUNTY OF LAKE, a body corporate and politic of the State of Illinois (the “County”) and the VILLAGE OF GRAYSLAKE, an Illinois municipal corporation (the “Village”).

**RECITALS:**

**WHEREAS:**

1. the County and the Village have entered into a Restated and Amended Agreement for Sewage Disposal, dated as of April 5, 2005 (the “Agreement”); and
2. the County and the Village entered into a “First Amendment to Restated and Amended Agreement for Sewage Disposal” dated August 9, 2005, relating to the extension of Sanitary Sewage Service to the Lake County Fairgrounds/Farm Bureau Property (the “First Amendment”); and
3. the County and the Village entered into a “Second Amendment to Restated and Amended Agreement for Sewage Disposal” dated April 10, 2007, relating to the extension of Sanitary Sewage Service to the Village of Grayslake Rollins Road Service Area (the “Second Amendment”); and
4. the County and the Village entered into a “Third Amendment to Restated and Amended Agreement for Sewage Disposal” dated December 11, 2009, relating to the extension of Sanitary Sewage Service to the Alter/Cornerstone Property (the “Third Amendment”); and

5. the County and the Village entered into a “Fourth Amendment to Restated and Amended Agreement for Sewage Disposal” dated September 11, 2012, relating to the extension of Sanitary Sewage Service to the PAE Property (collectively, the Agreement and the First, Second, Third and Fourth Amendments shall hereinafter be referred to as the “Sewage Agreement”); and

6. the Sewage Agreement establishes certain rights and duties of the parties, including the delivery of sewage from certain property within the Village of Grayslake Sewer Service Area into the County Sewerage System; and

7. certain property in the vicinity of Peterson Road, west of Midlothian Road and east of Rt. 83 comprising approximately 32 acres and intended to be used by SAIA Motor Freight Line, LLC, a Louisiana limited liability company (“SAIA”), for a trucking facility (the “Proposed Development”), legally described in Exhibit A to this Fifth Amendment, and depicted in Exhibit B to this Fifth Amendment (the "Village of Grayslake SAIA Property Service Area"), has been annexed to the Village pursuant to an annexation agreement and is the subject of Village ordinances granting certain zoning and development approvals (such annexation agreement and approvals are collectively referred to herein as the “Village Annexation Approvals”); and

8. the SAIA Property is not currently receiving Sanitary Sewage Service from the County; and

9. as acknowledged by the Village and SAIA pursuant to the Village Annexation Approvals, the SAIA Property must be included within the Northeast Central Lake Facilities Planning Area (the “NECFPA”) and the Village must request an amendment to the Sewage Agreement to extend Sewer Service to the SAIA Property; and

10. the Village desires to expand the Village of Grayslake Sewer Service Area to include the Village of Grayslake SAIA Property Sewer Service Area for the purpose of extending Sewer Service to and permitting the construction and operation of the Proposed Development to proceed upon the SAIA Property; and

11. the County has determined that, subject to the terms and conditions set forth in this Fifth Amendment, the extension of Sanitary Sewer Service by the County to the Village of Grayslake SAIA Property Service Area pursuant to the Sewage Agreement is consistent with the “Considerations and Principles Relating to Intergovernmental Agreements for Sewer and Amendments to Existing Agreements”; and

12. in light of the foregoing, the County and the Village desire to amend the Sewage Agreement to provide for Sanitary Sewer Service from the County to the Village of Grayslake SAIA Property Service Area, and the delivery of Sewage from the Village of Grayslake SAIA Property Service Area into the County Sewerage System, as provided in the Sewage Agreement and subject to the terms and provisions hereinafter set forth.

**NOW, THEREFORE,** in consideration of the mutual promises, covenants, and conditions contained herein, the parties hereby agree as follows:

**SECTION 1. General.**

A. Recitals. The foregoing recitals are incorporated into and made a part of this Fifth Amendment, as if fully set forth here.

B. Definitions. Unless specifically provided otherwise in this Fifth Amendment, the words and phrases in this Fifth Amendment shall have the meanings described to them in the Agreement.

C. Effect of Fifth Amendment. Except to the extent expressly modified in this Fifth Amendment, all terms, conditions, and provisions of the Sewage Agreement shall remain in full force and effect.

**SECTION 2. Amendments to Article II of the Sewage Agreement.**

Article II of the Sewage Agreement, entitled "Definitions," is hereby amended as follows:

A. Amendment to Section 2.28. Section 2.28, entitled "Village of Grayslake Sewer Service Area," of Article II, entitled "Definitions," of the Sewage Agreement is hereby amended in its entirety so that it reads as follows:

**2.28 Village of Grayslake Sewer Service Area.**

Those areas located within the area depicted on Exhibit C to the Fifth Amendment to this Agreement that are either currently within the corporate limits of the Village or which are subsequently annexed to the Village (which areas include the "Additional Territory" defined in the First-Fourth Amendments to this Agreement and this Fifth Amendment).

B. Addition of Section 2.34. Article II, entitled "Definitions," of the Sewage Agreement is hereby amended by adding a new Section 2.34, which shall be entitled "Village of Grayslake SAIA Property Service Area," and shall read as follows:

**2.34 Village of Grayslake SAIA Property Service Area.**

The area depicted on Exhibit B to the Fifth Amendment to the Agreement that is either currently within the corporate limits of the Village or subsequently annexed to the Village.

**SECTION 3. Provisions for, Conditions of, and Limitations on Service to the Village of Grayslake SAIA Property Service Area.**

In addition to the terms and conditions of the Sewage Agreement relating to the provision of Sanitary Sewer Service by the County to the Village and its Customers within the Village of Grayslake Sewer Service Area (as herein amended), the following provisions and limitations shall apply to the Village of Grayslake SAIA Property Service Area:

- A. Eligibility for Sanitary Sewer Service. Customers within the Village of Grayslake SAIA Property Service Area shall have the right to obtain Sanitary Sewer Service from the County Sewerage System, subject to: (i) the SAIA Property being located within the corporate limits of the Village; (ii) the entirety of the Village of Grayslake SAIA Property Service Area being included within the Northeast Central Lake Facility Planning Area (NECLFPA); and (iii) the extension of the Village Sewage Collection System to the Village of Grayslake SAIA Property Service Area without expense to the County and in accordance with the terms, conditions, and limitations of the Sewage Agreement (including payment of all applicable fees and charges), the County Sewer Ordinances, applicable state and federal laws and regulations, and the terms of this Fifth Amendment.
- B. Intergovernmental Transportation Agreement; Additional Conditions of Service. The County shall have no obligation to execute any permits authorizing Sanitary Sewer Service to any Customer within the Village of Grayslake SAIA Property Service Area or otherwise to serve any Customer within the Village of Grayslake SAIA Property Service Area: (i) until the owner pays the required Fees for Improvements as set forth in and calculated in accordance with the "Central Lake County Area Transportation Improvement Intergovernmental Agreement" dated December 1, 2009 (the "Central Lake County Transportation IGA"); or (ii) in the event that the Village is then in breach of the terms of either the Central Lake County Transportation IGA or this Fifth Amendment with respect to the Village of Grayslake SAIA Property Service Area.
- C. Stormwater Management. The County and the Village agree that all new construction on the SAIA Property shall be undertaken in accordance with the requirements of the Lake County Watershed Development Ordinance (the "WDO"). No Customer within a given

phase of the Proposed Development shall hereafter be newly connected, either directly or indirectly, to either the County Sewerage System or the Village Sewage Collection System unless the permits or approvals required under the WDO for such phase have been obtained.

D. Sewage Flows and Connection Fees.

1. Customers within the Village of Grayslake SAIA Property Service Area shall be permitted to connect to the County Sewerage System only for the purpose of providing Sanitary Sewer Service for non-residential uses consistent with the Proposed Development as reasonably determined by the County's Director of Public Works.
2. The total amount of sewage flow from the SAIA Property shall not exceed 60 P.E.
3. For purposes of establishing Connection Charges pursuant to Article VI of the Agreement, the Connection Charges for any non-residential Customers shall be calculated using design sewage flow coefficients as set forth in Exhibit D.

E. Special Requirements for Food Establishments. All food processing, food sales, and food service establishments hereafter located within the Village of Grayslake SAIA Property Service Area shall be required to install a grease trap for the removal of fats, oils, and grease ("FOG Traps"). The size of any FOG Trap required pursuant to this Section 3.E shall range from a minimum of 500 gallons to a maximum of 3000 gallons based on the design criteria established in the County Sewer Ordinances. Nothing herein shall be deemed to relieve any of the aforementioned food establishments from complying with all applicable provisions of the County Sewer Ordinances.

- F. Village Certification of Compliance. As a precondition of any Customer connection from the Village of Grayslake SAIA Property Service Area, the Village shall be required to certify to the County's Director of Public Works that the proposed Connection complies (or if multiple, then that the Connections comply) with the requirements of this Fifth Amendment. The County's Director of Public Works may reasonably prescribe forms on which such certifications shall be presented.

**SECTION 4. Challenges to Fifth Amendment or Sewage Agreement; Interpretation; Severability.**

- A. Joint Defense. In the event that a third party should make a claim or demand or file a suit challenging the provisions of this Fifth Amendment or the Sewage Agreement (a "Claim"), the Parties shall jointly defend themselves, each other, and this Fifth Amendment and the Sewage Agreement against such Claim, unless the Parties mutually agree to modify this Fifth Amendment or the Sewage Agreement in a manner that would negate the Claim.
- B. Indemnification. The Village agrees to indemnify the County, its employees, and its elected and appointed officials (collectively, the "Indemnified Parties") against, and to hold the Indemnified Parties harmless from, all claims that may be made against the County as a result of the Village's grant of the Village Annexation Approvals or the filing of any litigation related to the Village's grant of the Village Annexation Approvals. For claims subject to indemnification, whether the claims are equitable or at law, the Village agrees to pay the County's reasonably incurred costs and attorneys' fees, plus any resulting damage awards or judgments rendered against the County, and any settlements entered into by the County with the prior knowledge and approval of the Village.

- C. Release. The Village shall cause SAIA to release any and all claims and challenges it may have (including any claims against the County) relating to or arising from the execution, legality, or enforceability of any of the provisions of this Fifth Amendment.
- D. Interpretation and Severability. It is the intent of the Parties that the Village of Grayslake SAIA Property Service Area will be developed with uses consistent with the terms of this Fifth Amendment. It is the further intent of the County and the Village that this Fifth Amendment 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 Fifth Amendment, the provision that best promotes and reflects the intent of the parties shall control. To the extent any provision of this Fifth Amendment is construed or held to be void, invalid, or unenforceable in any respect, the remaining provisions of this Fifth Amendment shall not be affected thereby but shall remain in full force and effect. Notwithstanding the foregoing, to the extent that a Claim succeeds against the Parties that would permit the extension of Sanitary Sewer Service to development within the Village of Grayslake SAIA Property Service Area that is not consistent with the terms of this Fifth Amendment or the Sewage Agreement, then this Fifth Amendment shall be interpreted to automatically excise the portion of the Village of Grayslake SAIA Property Service Area that is affected by such Claim from the depiction of the Village of Grayslake SAIA Property Service Area, and the Village of Grayslake SAIA Property Service Area will be reduced accordingly, and any provision of this Fifth Amendment or the Sewage Agreement to the contrary shall be deemed null and void.

**SECTION 5. Exhibits.**

Exhibits A through D attached to this Fifth Amendment are, by this reference, incorporated into and made a part of this Fifth Amendment.



**SECTION 6. Effective Date.**

This Fifth Amendment shall be in full force and effect from and after the date first noted above.

[Signature page follows.]

IN WITNESS WHEREOF, the County and the Village, by their duly authorized officers, have executed this *Fifth Amendment to Restated and Amended Agreement for Sewage Disposal* as of the date stated above.

**COUNTY OF LAKE**

BY: \_\_\_\_\_  
Chairman, Lake County Board

ATTEST:

\_\_\_\_\_  
County Clerk  
  
(SEAL)

**VILLAGE OF GRAYSLAKE**

BY: \_\_\_\_\_  
Village President

ATTEST:

\_\_\_\_\_  
Village Clerk  
  
(SEAL)

## **EXHIBIT A**

### **Legal Description of the SAIA Property**

## **EXHIBIT B**

### **Village of Grayslake SAIA Property Service Area**

**EXHIBIT C**

**Village of Grayslake Service Area**  
**(as herein amended)**

## **EXHIBIT D**

### **Sewer Usage Coefficients**