

**THIS DOCUMENT HAS BEEN PREPARED
BY AND AFTER RECORDING SHOULD BE
RETURNED TO:**

TRESSLER LLP
233 SOUTH WACKER DRIVE
22ND FLOOR
CHICAGO, IL 60606
ATTN: KEVIN KEARNEY

(Reserved for Recorder's Use Only)

SEWAGE DISPOSAL AGREEMENT

This Sewage Disposal Agreement (the “**Agreement**”) is made as of this ____ day of _____, 2017 (the “**Effective Date**”) by and among the Village of Round Lake, an Illinois municipal corporation (the “**Village**”); the Lakes Region Sanitary District, an Illinois sanitary district (the “**District**”); the County of Lake, an Illinois body politic and corporate (the “**County**”); and _____, (a)n _____ (“**Baxter**”). The Village, the District, the County, and Baxter are sometimes hereinafter referred to as a “**Party**” or collectively as the “**Parties**”.

RECITALS

WHEREAS, Baxter owns real estate commonly known as _____ (the “**Property**”), and more accurately described on **Exhibit A**, which is attached hereto and incorporated herein by this reference; and

WHEREAS, the Property is located within the corporate boundaries of the District but is not located within any municipal boundary; and

WHEREAS, the Parties desire to enter into an agreement whereby Baxter will construct sewer pipes to send the Property’s wastewater into the Village’s municipal sanitary sewer system; and

WHEREAS, the wastewater from the Property will be transported from the Property to the Village’s municipal sanitary sewer system; the Village’s municipal sanitary sewer system will transport the wastewater into the County’s interceptor; and that County’s interceptor will transport the wastewater to the Fox Lake’s Northwest Regional Water Reclamation Facility for treatment (the “**Services**”); and

WHEREAS, the Village and the County have entered into that particular Agreement for Sewage Disposal dated July 10, 2012 (the “**Village Wholesale Agreement**”); and

WHEREAS, the District and the County have entered into that particular 2013 Restated and Amended Agreement for Sewage Disposal dated May 14, 2013 (the “**District Wholesale Agreement**” and collectively with the Village Wholesale Agreement the “**Wholesale Agreements**”); and

WHEREAS, in accordance with the Wholesale Agreements, the Property is located within the District Service Area and not within the Municipal Collection Area.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the Parties, the Parties agree to the following:

1. **RECITALS.** The Recitals above are hereby incorporated into this Agreement as if fully set forth herein.
2. **CONSTRUCTION.**
 - A. **Initial Construction.** Baxter shall construct all sewer pipes connecting the Property to the Village’s municipal sanitary sewer system in accordance with the District’s ordinances and standards. Baxter shall be solely responsible for all construction fees, permitting fees, review fees, inspection fees, insurance and any other costs associated with the construction of the sewer pipes connecting the Property to the Village’s municipal sanitary sewer system.
 - B. **Permitting Fees.** Nothing in this Agreement shall be construed to waive the right, need and obligation for Baxter to pay for and obtain all permits and other governmental approvals required to construct or repair any sewer pipes. Similarly, nothing in this Agreement shall be construed to waive the right, need and obligation for Baxter to pay for and obtain all permits and other governmental approvals required to operate pretreatment facilities and discharge sanitary sewage to the downstream facilities
 - C. **Maintenance.** The Parties agree that neither the Village, the County, nor the District shall have any maintenance responsibilities for the pipes connecting the Property to the Village’s municipal sanitary sewer system, including, but not limited to, repairs or replacements for defective work on the pipes. As a condition of this Agreement, Baxter agrees to have their pipes serviced, cleaned and maintained regularly and in strict accordance with the recommendations of a professional engineer and in accordance with District ordinances. Notwithstanding anything here to the contrary, the Village and the District retain the rights to demand that Baxter replace or repair the sewer pipes connecting the Property to the Village’s municipal sanitary sewer system at a future date; provided the Village or the District will give Baxter at least 60 days’ written notice of the same.
 - D. **Removal of Pipes upon Termination.** Upon the termination of this Agreement, Baxter will remove all sewer pipes connecting the Property to the Village’s municipal sewer system to the reasonable satisfaction of the Village. If applicable, Baxter will also pay any sewer disconnection fee as outlined in the Village’s Municipal Code, the Wholesale Agreements and in the District’s Ordinances.

3. **PAYMENT.**

- A. **Connection Fee.** In connection with installing the sewer pipes connecting the Property to the Village's sanitary sewer system, the Parties agree that Baxter will pay the following fees (collectively the "**Connection Fees**") to the District: (1) the District's connection fees as set by the Ordinances of the District plus (2) all connection fees payable to the County for utilizing County-owned transmission mains plus (3) all connection fees payable to the Village of Fox Lake's Northwest Regional Water Reclamation Facility for use of the Reclamation Facility plus (4) all applicable recapture fees. The District shall distribute one half (1/2) of the District's connection fee to the Village. The Connection Fees and recapture fees are detailed in Exhibit B, which is attached hereto and incorporated herein by this reference.
- B. **Monthly User Charge.** In exchange for the Services, the Parties agree that Baxter will pay the following fees (collectively, the "**Monthly User Fees**") to the District: (1) ten percent (10%) of the District's normal and customary user fee as set by the Ordinances of the District plus (2) the Village's normal and customary user fee as set by the Ordinances of the Village plus (3) the County's normal and customary Northwest Lake wholesale user fees including the Excess Flow Facility Surcharge plus (4) the Village of Fox Lake's Northwest Regional Water Reclamation Facility normal and customary wholesale user fee, all as amended from time to time. The Monthly User Fee will be billed every month and shall be adjusted as outlined in Section 4 and due from Baxter within 30 days of being billed, as customary for all residents in the District. Any portion of the Monthly User Fee paid late will be subject to the District's standard late fees and subject to the Wholesale Agreements late fees.
- C. **Wholesale Agreement Payments.** The District shall be responsible for all payments owed to the Village, the County and other parties under the Wholesale Agreements and other applicable agreements and arising out of the Services. The Village shall not be responsible for any late payments owed to any party under the Wholesale Agreements and arising out of the Services. The District retains the right to charge Baxter any late fees owed to any party under the Wholesale Agreements that are assessed as a result of Baxter's actions.
- D. **Collection of Fees and Charges.** In addition to any late fees, in the event that Baxter does not pay to the District all Monthly User Fees, the District, the Village, and/or the County shall have the right to institute an action to collect any Monthly User Fees due pursuant to this Agreement (a "**Collection Action**"). No such Collection Action shall be instituted until 30 days after notice is delivered to Baxter demanding payment of unpaid Monthly User Fees (including any late fees). As part of a Collection Action, the District, the Village, and/or the County shall be entitled to recover all fees and costs (including reasonable attorneys' fees) incurred in connection with the Collection Action.

4. **AUDIT AND ADJUSTMENT OF FEES.**

A. **Flow Monitoring.**

1. **In General.** The Parties recognize that the Connection Fees due on the Effective Date and all subsequent Monthly User Fees are based on the assumption that the Property will emit an average volume of 167,000 gallons of sewage per day. The "**Basis**" shall be the average daily volume of sewage discharged from Baxter to the downstream collection system, and 167,000 gallons of sewage per day shall be the "**Initial Basis**". The initial Basis may be changed as provided in this Section 4.A.

2. Monitoring and Reporting. Baxter shall continuously monitor and record discharge volumes of the sanitary sewer flows emitted to the downstream collection system. On an annual basis (and in no event later than January 22 of any calendar year), Baxter shall submit the flow metering data from the preceding calendar year to the District, the Village, and the County for audit and adjustment of fees as appropriate, which audit may be shared with the Village of Fox Lake. The flow metering report submitted to the Village, the District, and the County will be certified by a professional firm acceptable to the District.
3. Adjustment to Basis; Monthly User Fee Calculations. Based upon audits as provided under Section 4.A.1 of this Agreement, if the average daily volume of sewage transmitted during the preceding year (as measured from January 1st to December 31st thereof), is more than 105% of the then-current Basis, then the increased average volume of sewage per day shall become the new Basis for determining Monthly User Fees until subsequently changed pursuant to this Section. If the average daily volume of sewage transmitted during the preceding year (as measured from January 1st to December 31st thereof), is less than 95% of the then-current Basis, then the decreased average volume of sewage per day shall become the new Basis for determining Monthly User Fees until subsequently changed pursuant to this Section.
4. Adjustment to Connection Fees: If at any time during the term of this Agreement the Basis is adjusted pursuant to this Section 4.A to an amount greater than 175,350 gallons of sewage per day (being 105% of the Initial Basis) (an “**Adjusted Basis**”), then in conjunction with such Adjusted Basis, the District shall determine whether Baxter shall be required to pay any supplemental Connection Fees based on the following calculation:

[(Adjusted Basis) (2017 Connection Fee Rate)]

MINUS

(Amount of Connection Fees previously paid by Baxter).

Supplemental Connection Fees shall only be calculated as part of an adjustment to Basis as provided in Section 4.A.3 of this Agreement, and the District shall invoice Baxter for such supplemental Connection Fees, which shall be paid to the District within 30 days after invoicing. Following receipt of payment from Baxter of any supplemental Connection Fees, the District shall distribute appropriate amounts to the Village and the County (on behalf of the County and the Village of Fox Lake) in accordance with Section 3.A of this Agreement.

B. Pretreatment; Character and Quality of Sewage.

1. Pretreatment. Baxter shall enter into a pretreatment program with the Village of Fox Lake and shall be required to satisfy all requirements of such pretreatment program. Any and all costs of such pretreatment program shall be borne exclusively by Baxter.
2. Sampling. Not less than quarterly, Baxter shall cause the sampling of its sewage to ascertain its strength and characteristics. Such sampling may be conducted as part of the Fox Lake pretreatment program and shall be tested and certified by a professional firm acceptable to the District. Baxter shall bear any and all costs associated with

such sampling and testing, and Baxter shall cause such sampling tests to be delivered to the District.

3. Rate Adjustments Based on Sewage Strength and Character. To the extent that the sampling tests reveal that Baxter's sewage exceeds limits for sewage charged the normal and customary sewage rates of the District, the Village, and/or the County, Baxter shall be subject to any additional or different charge of the District, Village, and County that may be applicable based on the strength and characteristics identified in the sampling tests.

- C. Verification Monitoring. Notwithstanding anything here to the contrary, the District, the Village, and the County retain the right to access the Property for verification of the meters measuring the sewage emissions and samplings.

5. WHOLESALE AGREEMENT EXCEPTIONS.

A. In General.

1. District Wholesale Agreement. Under Section 5.2.B of the District Wholesale Agreement, the District is only authorized to deliver sewage from the District Sewage Collection System. Additionally, under Section 6.1.B of the District Wholesale Agreement, the District is required to pay the County based on the County's applicable user fees billed, whether or not collected.
2. Village Wholesale Agreement. Under Sections 4.2.A, the Village is only authorized to connect a property to the Municipal Sewage Collection System if such property is located within the Municipal Collection Area.

- B. Exceptions. Notwithstanding the strict terms of the Wholesale Agreements, the County shall permit the following exceptions to the Wholesale Agreements only with respect to Baxter and the Property:

1. Collection Facilities. For purposes of this Agreement only, the Village's municipal sanitary sewer system facilities shall be used on behalf of the District to serve the Property, notwithstanding that the Property lies outside the Village's Municipal Collection Area as set forth in the Village Wholesale Agreement. The District shall be responsible for billing and collection all fees and charges due under this Agreement (subject to the provisions of Section 3.D above). In addition, the regulations and standards of the District shall control with respect to the Property.
2. Payment Obligations to County. Notwithstanding the terms of the Wholesale Agreements, with respect only to Baxter and the Property, the District shall only be obligated to pay the County for:
 - (i) the County's normal and customary Northwest Lake wholesale user fees (including the Excess Flow Facility Surcharge); and
 - (ii) the Village of Fox Lake's Northwest Regional Water Reclamation Facility normal and customary wholesale user fee (all as amended from time to time),

to the extent that the District receives payment from Baxter. Consistent with the foregoing, the District shall only be required to pay amounts due to the Village under this Agreement to the extent that the District receives payment from Baxter.

3. **Conflict.** Regarding the Services for the Property, the terms of this Agreement shall control where in conflict with the Wholesale Agreements.
6. **TERM.** This Agreement shall be in full force and effect for a period of 20 years from the Effective Date; provided, however, that this Agreement may be terminated upon 90 days' notice by the County to the other Parties if the use of the Property changes in a manner that is inconsistent with Section 5.4 of the Village Wholesale Agreement.
7. **OWNERSHIP OF THE PIPES AND INDEMNIFICATION.** All sewer pipes connecting the Property to the Village's municipal sewer system are and shall forever remain the property of Baxter. Neither the Village, the County, nor the District adopt or take any ownership of the sewer pipes constructed by Baxter hereunder. To the fullest extent permitted by law, Baxter, and its permitted assigns and successors-in-interest to title, hereby forever waive, relinquish, indemnify, discharge and hold harmless the Village, the District, and the County and their respective elected and unelected officers, officials, employees, agents, attorneys, representatives, and consultants from any and all claims of every nature whatsoever from damage, loss, or injury caused by or resulting from, whether directly or indirectly, the sewer pipes connecting the Property to the Village's municipal sewer system and/or wastewater from the Property.

8. **GENERAL PROVISIONS.**

- A. **NOTICE.** All notices hereunder shall be deemed given and received if (i) personally delivered on the day of delivery or (ii) sent by certified mail two business days after deposited with the United States mail, addressed to each Party as follow:

To the Village:	Village of Round Lake 442 North Cedar Lake Road Round Lake, Illinois 60073 Attention: Village Clerk
To the District:	Lakes Region Sanitary District 25700 Old Grand Avenue Ingleside, IL 60041 Attention: District Manager
To the County:	Office of the Lake County Administrator County of Lake 18 North County Street Waukegan IL 60085 Attention: Lake County Administrator
To Baxter:	Arthur J. Gibson VP EHS&S Baxter International 25212 West Illinois Route 120 Round Lake, IL 60073

- B. INTERPRETATION.** This Agreement shall be construed and enforced in accordance with the laws of the State of Illinois. Section headings are for convenience only and are not a part of this Agreement and shall not be used in construing it. The Parties hereto agree that each has been instrumental in drafting this Agreement and the Agreement shall not be interpreted against one Party over any other due to that Party's role in drafting this Agreement.
- C. RUNS WITH THE LAND.** All provisions of this Agreement shall run with the land and shall be binding upon and inure to the benefit of the successors and assigns of the Parties hereto. A copy of this Agreement will be recorded with the Lake County Recorder's Office at Baxter's expense.
- D. COUNTERPARTS.** This Agreement may be executed in counterparts each of which shall be deemed an original, and all of which, taken together, shall constitute a single instrument.
- E. ENTIRE AGREEMENT.** This instrument contains the entire agreement between the Parties relating to the rights granted herein and the obligations herein assumed. Any oral representations or modifications concerning this instrument shall be of no force and effect, and any modifications to this Agreement must be in writing and must be signed by all Parties to this Agreement.
- F. SEVERABILITY.** Invalidation by judgment or court order of any one or more of the covenants or restrictions contained herein shall in no way affect any other provisions which shall remain in full force and effect.
- G. NO WAIVER OF TORT IMMUNITY.** Nothing contained in this Agreement is intended to constitute nor shall constitute a waiver of the rights, defenses, and immunities provided or available to any Party under the Illinois Local Governmental and Governmental Employees Tort Immunity Act.
- H. SUCCESSORS AND ASSIGNS.** This Agreement may not be transferred or assigned by Baxter without the express written consent of all the Parties, which consent shall not be unreasonably withheld; provided, however, that as a condition of consent any Party may require Baxter's successor to execute an acknowledgement and acceptance of the terms of this Agreement. Each of the District, Village, and County shall be authorized to assign their respective rights and responsibilities under this Agreement upon 30 days' notice to the other Parties.
- I. NO THIRD-PARTY BENEFICIARIES.** This Agreement is entered into solely for the benefit of the Parties, and nothing in this Agreement is intended, either expressly or impliedly, to provide any right or benefit of any kind whatsoever to any person or entity who is not a party to this Agreement, or to acknowledge, establish, or impose any legal duty to any third party.
- J. ATTORNEYS' FEES AND COSTS.**
1. Baxter shall bear the costs of each Party for attorneys' fees incurred in the preparation and execution of this Agreement.
 2. To the extent that enforcement of any provision of this Agreement is undertaken against Baxter by the District, the Village, or the County (including without limitation enforcement of ordinances and/or standards applicable to the Property and

sewage discharged therefrom), Baxter shall be responsible for paying any fees and costs (including reasonable attorneys' fees) incurred in connection with such enforcement.

K. JURISDICTION AND PREVAILING PARTY. Any dispute arising from this Agreement shall be litigated in the Circuit Court of Lake County. The prevailing party in any suit or action, as determined by the Court, shall be entitled to recover their costs in enforcing this Agreement, including reasonable attorneys' fees.

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IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed as of the Effective Date.

Village of Round Lake,
an Illinois municipal corporation

_____,
a(n) _____

By: _____
Its: _____

By: _____
Its: _____

ATTEST:

ATTEST:

By: _____

By: _____

Lakes Region Sanitary District,
an Illinois sanitary district

County of Lake, an Illinois body politic and corporate

By: *J. Kevin Hunter*
Its: PRESIDENT
J. KEVIN HUNTER

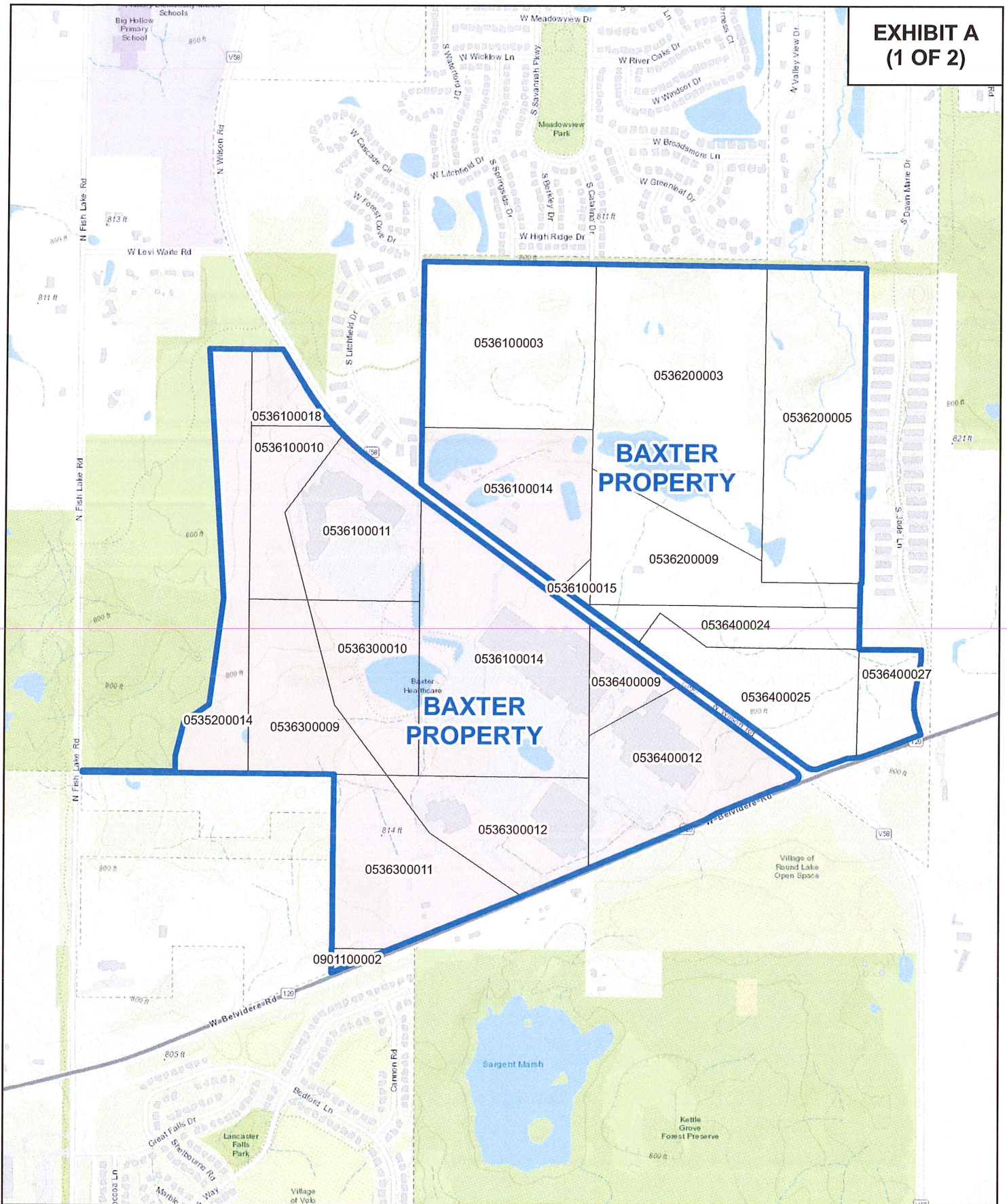
By: _____
Its: _____

ATTEST:

ATTEST:

By: *Bence V. Shrub*
CLERK

By: _____



BAXTER PROPERTY

 Baxter Property



0 Feet 1,000

Exhibit A
2 of 2

Common Address

PIN

32430 N Wilson Road	05-36-400-009
32455 N Wilson Road	05-36-400-024
32515 N Wilson Road	05-36-200-009
32575 N Wilson Road	05-36-100-015
32599 N Wilson Road	05-36-100-014
32635 N Wilson Road	05-36-200-003
32650 N Wilson Road	05-36-100-011
32660 N Wilson Road	05-36-100-010
32707 N Wilson Road	05-36-200-005
32801 N Wilson Road	05-36-100-003
32808 N Wilson Road	05-36-100-018
0 IL Route 120	05-36-400-027
25150 W IL Route 120	05-36-400-025
25212 W IL Route 120	05-36-400-012
25610 W IL Route 120	05-36-300-012
25746 W IL Route 120	05-36-300-011
25756 W IL Route 120	05-36-300-010
25830 W IL Route 120	09-01-100-002
25850 W IL Route 120	05-36-300-009
32645 N Fish Lake Road	05-35-200-014

Exhibit B

Connection Fees and Recapture Fees

Non-Residential Wastewater Flow Calculation

Description	# Unit	CoEff	GPD
Office	N/A	N/A	167,000

Note: Coefficient based on LCPWD/LRSD
Intergovernmental Agreement, 2013

TOTAL	167,000 GPD
	1,670 PE
	668 RCE

For Non-Residential: 1 RCE = 2.5 PE

	Unit	Unit Price	Fee
Connection/Permit Fees			
LRSD/RL Connection Fee	668	\$1,750 /RCE	1,169,000.00
LCPWD Connection Fee	668	\$1,190 /RCE	794,920.00
NWRWRF Connection Fee	668	\$2,000 /RCE	1,336,000.00
LRSD Permit Fee	1	\$50 /Building	50.00

Special Connection Fees/Recapture Fees

Nippersink Corridor Special Connection Fee	0	\$1,020 /PE	
South Trunk Sewer – North Service Area	0	\$319 /PE	
South Trunk Sewer – South Service Area	0	\$680 /PE	
South Trunk Sewer – Route 120 Crossing	0	\$76 /PE	
Valley Lakes Recapture (Round Lake/Pritzker)	1,670	\$294.92 /PE	\$492,516.40
Round Lake – Trunk Sewer Recapture Fee	0	\$385 /PE	
Round Lake – Trunk Sewer Recapture Fee:			
Admin Fee – 2% of Recapture Fee			

TOTAL CONNECTION FEE	\$3,792,486.40
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