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**AGREEMENT FOR SANITARY SEWER AND WATER SUPPLY SERVICES
TO THE CUNEO SERVICE AREA OF THE VILLAGE OF VERNON HILLS**

Entered Into By and Between

The County of Lake

and

The Village of Vernon Hills

As of

June 7, 1996

4. In addition, pursuant to such plans and programs, the County has also constructed, and now owns and operates, a system of distribution mains, service lines, pumping stations, and other necessary facilities to provide water supply services to limited portions of the Southeast Central Lake Facilities Planning Area.

5. The Village has requested that the County expand its existing sewer and water service areas to serve approximately 1076 undeveloped acres of land located in the northeast portion of the Village that is referred to in this Agreement as the "Cuneo Service Area."

6. The Cuneo Service Area is not currently provided with public sanitary sewer or water supply services.

7. Connection to the County's sewer and water systems is the most cost-effective and environmentally protective solution to the long-term sewage treatment and water supply needs of the Cuneo Service Area.

8. The County and the Village desire to enter into this agreement to permit the Village, subject to the terms, conditions, and limitations herein specified, to obtain sanitary sewer and water supply services for the Cuneo Service Area from the County's sewer and water systems serving a portion of the Southeast Central Lake Facilities Planning Area.

9. The County and the Village enter into this Agreement to promote and provide for the efficient and economic development and use of costly public infrastructure pursuant to sound and logical public plans and to avoid wasteful duplication of public facilities.

AGREEMENT

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

ARTICLE I

RECITALS

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

ARTICLE II

DEFINITIONS

2.1 Agreement Date.

The "Agreement Date," as defined and established in Subsection 2.A of the Cuneo Land Management Agreement.

2.2 Biochemical Oxygen Demand.

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

2.3 Collection.

The receipt of Sewage directly from the service connection of an individual Customer for delivery to the County-Vernon Hills 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 newly connecting to the County-Vernon Hills Sewerage and Waterworks Systems as a condition of such connections.

2.6 County Sewer and Water 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 by the County relating in any way to the County-Vernon Hills Sewerage System or to the Collection, Transport, Pretreatment, or Treatment of Sewage in the County and also any and all ordinances adopted by the County relating in anyway to the use, operation, or management of the County-Vernon Hills Waterworks System.

2.7 County-Vernon Hills Interceptors.

The system of Sanitary Sewers, including those described in the Comprehensive Plan, owned and operated by the County that receive Sewage from local sewage collection systems and that are tributary to the County-Vernon Hills Plant.

2.8 County-Vernon Hills Plant.

The treatment plant owned and operated by the County, known as the Vernon Hills New Century Town Wastewater Treatment Plant, together with any associated facilities and any additions to or extensions of such plant or of such facilities.

2.9 County-Vernon Hills Service Area.

The portions of the Village and surrounding areas lying within the Southeast Central Regional Area that receive, now or in the future, Sanitary Sewer Service or Water Supply Service from the County.

2.10 County-Vernon Hills Sewerage System.

The County-Vernon Hills Plant, the County-Vernon Hills Interceptors, and all other Sanitary Sewers and 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 and Treating Sewage within the County-Vernon Hills Service Area. Upon the County's acceptance of ownership of the Cuneo Sewer System, or any portion of it, pursuant to this Agreement, such System, or such portion of it, shall become part of the County-Vernon Hills Sewerage System.

2.11 County-Vernon Hills Waterworks System.

The distribution mains, service lines, pumping stations, metering equipment, and treatment facilities, as well as associated lands, easements, and rights-of-way, that the County, from time-to-time, owns or operates for the purpose of, or relating to, providing Water Supply Services in the County-Vernon Hills Service Area and other County service areas. Upon the County's acceptance of ownership of the Cuneo Water System, or any portion of it, pursuant to this Agreement, such System, or such portion of it, shall become part of the County-Vernon Hills Waterworks System.

2.12 Cuneo Elevated Water Storage Reservoir.

The elevated water storage reservoir, to be owned and operated by the County to serve the water supply needs of the Cuneo Service Area and surrounding County service areas, to be constructed as part of the Cuneo Water Supply Phase I Facilities in a location as depicted on, and as more fully described in, Exhibit H attached hereto.

2.13 **Cuneo Ground Water Storage Reservoir.**

The ground water storage reservoir, to be owned and operated by the County to serve the water supply needs of the Cuneo Service Area and surrounding County service areas, to be constructed as part of the Cuneo Water Supply Phase II Facilities in a location as depicted on, and as more fully described in, Exhibit I attached hereto.

2.14 **Cuneo Land Management Agreement.**

The "Joint Local Land Resource Management Plan and Agreement" dated as of June 13, 1995, by and between the County, the Village, and the owners and developer of the Cuneo Property, and recorded in the Office of the Lake County Recorder of Deeds on April 15, 1996, as Document No. 3810882.

2.15 **Cuneo Property.**

That approximately 1174 acre tract of land consisting of an approximately 1120 acre tract of land located generally in the northeast portion of the Village and an approximately 54 acre tract of land located at the northeast corner of Route 60 and Route 21 in the Village, both to be legally described on Exhibit A to be attached to this Agreement pursuant to Section 9.12 of this Agreement and as generally depicted on the Cuneo Service Area Map attached hereto as Exhibit B.

2.16 **Cuneo Road Agreement.**

The "Agreement Relating to the Development and Regulation of Roads and Related Facilities to Serve the Cuneo Property" of even date herewith, and entered into by and between the County, the Village, and the owners and developer of the Cuneo Property pursuant to Subsection 2.E of the Cuneo Land Management Agreement.

2.17 Cuneo Service Area.

The entire Cuneo Property excepting only (i) that portion of the Cuneo Property, consisting of a strip of land running parallel to, and abutting, the south side of the EJ&E Railroad Right-of-way between Lake View Parkway and Butterfield Road, which is to be legally described on Exhibit A to be attached to this Agreement pursuant to Section 9.12 of this Agreement, and which is generally depicted on the Cuneo Service Area Map attached hereto as Exhibit B (the "Strip") and (ii) that portion of the Cuneo Property commonly referred to as the Cuneo Museum Property, which contains approximately 80 acres located south of the EJ&E Railroad right-of-way and directly west of and along Milwaukee Avenue, which is devoted to the Cuneo Museum and related uses, which is to be legally described on Exhibit A to be attached to this Agreement pursuant to Section 9.12 of this Agreement, and which is generally depicted on the Cuneo Service Area Map attached hereto as Exhibit B. The Strip and the Cuneo Museum Property are not part of the Cuneo Service Area. The Cuneo Service Area is composed of the following two services areas:

A. Cuneo Commercial Service Area. The area designated and outlined on Exhibit B hereto as the area within the Cuneo Service Area, consisting of approximately 139 acres, to be developed for Retail Commercial, office, and hotel uses.

B. Cuneo Residential Service Area. The area designated and outlined on Exhibit B hereto as the area within the Cuneo Service Area, consisting of approximately 937 acres, to be developed for residential, recreational, and other similar uses.

2.18 **Cuneo Sewer System.**

A system of sewer mains and related facilities necessary to provide Sanitary Sewer Service to the Cuneo Service Area consisting of the following Cuneo Sewage Collection Facilities and Cuneo Sewage Transportation Facilities, all of which are to be dedicated to the County and to become part of the County-Vernon Hills Sewerage System:

A. **Cuneo Sewage Collection Facilities.** The sewer mains and related facilities, as more fully described and depicted in Exhibit C attached hereto, to be constructed within the Cuneo Service Area to carry Sewage from individual Customers to the Cuneo Sewage Transportation Facilities in accordance with the County Sewer and Water Ordinances and all other applicable laws, ordinances, and regulations.

B. **Cuneo Sewage Transportation Facilities.** The sewer mains, lift stations, connection facilities, and related facilities, whether located within or without the Cuneo Service Area, necessary to connect the Cuneo Sewage Collection Facilities to the existing County-Vernon Hills Sewerage System in accordance with the County Sewer and Water Ordinances and all other applicable laws, ordinances, and regulations. The Cuneo Sewage Transportation Facilities shall be composed of the following three Sewage Transportation Facility phases:

1. **Cuneo Sewage Transportation Phase I Facilities.** The Cuneo Sewage Transportation Facilities described and depicted in Exhibit D attached hereto.

2. **Cuneo Sewage Transportation Phase II Facilities.** The Cuneo Sewage Transportation Facilities described and depicted in Exhibit E attached hereto.

3. **Cuneo Sewage Transportation Phase III Facilities.** The Cuneo Sewage Transportation Facilities described and depicted in Exhibit F attached hereto.

2.19 **Cuneo Utility Facilities.**

The Cuneo Sewer System and the Cuneo Water System, which shall, for purposes of design, construction, and installation, be divided into two phases consisting of the following Cuneo Initial and Additional Utility Facilities:

A. **Cuneo Initial Utility Facilities.** All portions of the Cuneo Sewage Transportation Phase I and Phase II Facilities, and the Cuneo Water Supply Phase I and Phase II Facilities.

B. **Cuneo Additional Utility Facilities.** All portions of the Cuneo Sewage Transportation Phase III Facilities, the Cuneo Sewage Collection Facilities, and the Cuneo Water Distribution Facilities.

2.20 **Cuneo Utility Facilities Cost.**

The entire actual cost of designing, constructing, installing and placing in operation the Cuneo Utility Facilities, which shall be divided into the following two components:

A. **Cuneo Initial Utility Facilities Cost.** The entire actual cost of designing, constructing, installing, and placing in operation the Cuneo Initial Utility Facilities.

B. **Cuneo Additional Utility Facilities Cost.** The entire actual cost of designing, constructing, installing, and placing in operation the Cuneo Additional Utility Facilities.

2.21 **Cuneo Water System.**

A system of water mains and related facilities necessary to provide Water Supply Service to the Cuneo Service Area consisting of the following Cuneo Water Distribution Facilities and Cuneo Water Supply Facilities, all of which are to be dedicated to the County and to become part of the County-Vernon Hills Waterworks System:

A. **Cuneo Water Distribution Facilities.** The water mains, hydrants, and other facilities, all as more fully described and depicted in Exhibit G attached hereto, to be constructed

within the Cuneo Service Area to carry water from the Cuneo Water Supply Facilities to individual Customers in accordance with the County Sewer and Water Ordinances and all other applicable laws, ordinances, and regulations.

B. **Cuneo Water Supply Facilities.** The water distribution mains, service lines, hydrants, connection facilities, and related facilities, whether located within or without the Cuneo Service Area, necessary to connect the Cuneo Water Distribution Facilities to the existing County-Vernon Hills Waterworks System in accordance with the County Sewer and Water Ordinances and all other applicable laws, ordinances, and regulations. The Cuneo Water Supply Facilities shall be composed of the following two Water Supply Facility phases:

1. **Cuneo Water Supply Phase I Facilities.** The Cuneo Water Supply Facilities described and depicted in Exhibit H attached hereto.

2. **Cuneo Water Supply Phase II Facilities.** The Cuneo Water Supply Facilities described and depicted in Exhibit I attached hereto.

2.22 **Customer.**

Any dwelling, business, office, institutional, or other building, facility, or entity located in the Cuneo Service Area that discharges Sewage, either directly or indirectly, into the County-Vernon Hills Sewerage System or that accepts water, either directly or indirectly, from the County-Vernon Hills Waterworks System.

2.23 **Development Approval.**

The authorization or approval for any work, development, or use of, on, or for any land located within the Cuneo Service Area, including, without limitation, the execution, sealing, or stamping any plat of subdivision or other development plan or permit including any such land.

2.24 **Effective Date.**

The date on which this Agreement shall become effective pursuant to Subsection 9.8A of this Agreement.

2.25 **Force Majeure.**

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

2.26 **Industrial Waste.**

Liquid and water-carried waste discharged, permitted to flow, or escaping from industrial, manufacturing, or production processes, or from the development, recovery, or processing of any natural resource.

2.27 **Infiltration Water.**

Water that enters a Sanitary Sewer from the surrounding soil.

2.28 **Population Equivalent.**

The calculated population that would normally produce 100 gallons of Sanitary Sewage per day containing 0.17 pounds of Biological Oxygen Demand and 0.20 pounds of Suspended Solids or, for Industrial Waste, the estimated population that would produce Sanitary Sewage equal in strength and composition to a unit of volume of Industrial Waste on the basis of the higher of said factors.

2.29 **Pretreated Sewage.**

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

2.30 **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 in the County Sewer and Water Ordinances.

2.31 **Retail Commercial.**

The sale of products, recreation, or services directly to ultimate consumers, but specifically excluding, without limitation, all warehouse and wholesale uses and operations.

2.32 **Sanitary Sewage.**

Liquid and water-carried waste discharged from the plumbing fixtures of dwellings and other buildings, but not including such waste discharged from industrial processes.

2.33 **Sanitary Sewer.**

Any sewer that carries Sewage.

2.34 **Sanitary Sewer Service.**

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

2.35 **Sewage.**

Sanitary Sewage, Industrial Waste, and Pretreated Sewage, together with such Infiltration Water as may be permitted under the County Sewer and Water Ordinances.

2.36 **Sewer User Fee.**

The standard rate charged by the County for Collection, Transport, and Treatment of Sewage of a specified volume, strength, and composition.

2.37 **Southeast Central Regional Area.**

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

2.38 **Suspended Solids.**

Solids that either float on the surface of, or are in suspension in, Sewage or other liquids and that are removable by laboratory filtering.

2.39 **Transport.**

The conveyance of Sewage from the point or points of discharge of the Cuneo Sewage Collection Facilities to the County-Vernon Hills Plant or to any other provider of Treatment service.

2.40 **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 not requiring Pretreatment under the standards of the County Sewer and Water Ordinances or the Federal Clean Water Act, or of Pretreated Sewage, so as to meet regulatory requirements.

2.41 **Water Supply Service.**

The delivery of water from the County-Vernon Hills Waterworks System, or any other public or private water service, to the Cuneo Water Distribution Facilities or directly to the service connection of individual Customers.

2.42 **Water User Fee.**

The standard rate charged by the County for the distribution and delivery of water of a specified volume.

ARTICLE III

CONSTRUCTION AND FINANCING

3.1 Sewer and Water Systems Construction.

A. Village Obligations. The Village shall, at its sole cost and expense, take all action necessary to cause the Cuneo Sewer and Water Systems to be designed, constructed, and installed as necessary to serve the Cuneo Service Area in accordance with this Agreement, the County Sewer and Water Ordinances, and all other requirements of law. In fulfilling its responsibilities hereunder, the Village shall undertake, or cause to be undertaken, at least the following work relating to the Cuneo Sewer and Water Systems:

1. Obtain engineering services, from a firm acceptable to the County, for the design, plans and specifications, and construction of the Cuneo Sewer and Water Systems;
2. Obtain and convey to the County, on such forms as may be acceptable to the County, all easements, rights-of-way, licenses, and other property rights that are necessary or convenient to construct, install, operate, and maintain the Cuneo Sewer and Water Systems, including the preparation of appropriate surveys, agreements, and other relevant documents;
3. Negotiate, prepare, and enter into, on such forms as may be acceptable to the County and with firms acceptable to the County, all contracts necessary in connection with the construction and installation of the Cuneo Sewer and Water Systems;
4. Secure, on behalf of itself, the County, and all other necessary parties, all permits, approvals, and authorizations that may be necessary or appropriate to construct, install, and operate the Cuneo Sewer and Water Systems;
5. Submit to the County, for the County's review and approval, all preliminary and final engineering plans, drawings, and specifications, all contract documents, and all permit applications;

6. Convey, or caused to be conveyed, to the County all right, title, and interest in the Cuneo Sewer and Water Systems as and when such Systems, or portions of them, have been completed in accordance with the requirements of this Agreement and have been approved by the County as being in full compliance with this Agreement, all applicable contracts, plans and specifications, the County Sewer and Water Ordinances, and all other requirements of law; and
7. Perform all other activities necessary or convenient in connection with the design, construction, installation, and placing into service of the Cuneo Sewer and Water Systems, including associated administrative activities.

The Village shall cause the work required pursuant to this Subsection to be commenced within one year after the Agreement Date. The Village shall thereafter diligently pursue such work, or cause such work to be diligently pursued, in accordance with the applicable work schedules set forth in Exhibits D, E, H, and I attached hereto, until the Cuneo Sewer and Water Systems, and all portions thereof, are fully operational and acceptable to the County.

B. **County Obligations and Rights**. The County shall, subject to all of its costs and expenses associated therewith being reimbursed by, or on behalf of, the Village, have the following obligations and rights with respect the work required to be performed by the Village pursuant to Subsection 3.1A of this Agreement:

1. Review, comment on, and, when completed in accordance with this Agreement, the County Sewer and Water Ordinances, and all other requirements of law, approve all designs, all plans and specifications, all contract documents, and all easements, rights-of-way, licenses, and other property rights required to be prepared or supplied by the Village pursuant to Subsection 3.1A of this Agreement;
2. Review, comment on, and, when completed in accordance with this Agreement, the County Sewer and Water Ordinances, and all other requirements of law, execute all permit applications required to be filed by the Village pursuant to Subsection 3.1A of this Agreement, but only when the signature of the County is required by the permitting agency;

3. Conduct such inspections of the work required to be performed by the Village pursuant to Subsection 3.1A of this Agreement as the County may deem necessary or appropriate to protect its interests; and
4. Accept ownership of the Cuneo Sewer and Water Systems, or portions of them, when, but only when, satisfied, in its sole and absolute discretion, that (a) the Cuneo Sewer and Water Systems, or portions of them, have been completed in accordance with the requirements of this Agreement and are in full compliance with this Agreement, all applicable contracts, plans and specifications, the County Sewer and Water Ordinances, and all other requirements of law; and (b) all costs and expenses associated with the Cuneo Sewer and Water Systems, or the portion of them to be accepted by the County, have been paid in full.

3.2 **Payment and Guaranty of Costs.**

A. **Cuneo Initial Utility Facilities.** The Village shall pay, or cause to be paid, the full Cuneo Initial Utility Facilities Cost. To ensure the completion of the design, construction, and installation of the Cuneo Initial Utility Facilities and payment of the full Cuneo Initial Utility Facilities Cost, the County and the Village have agreed to require the owner of the portion of the Cuneo Property included in the Cuneo Residential Service Area to deposit, and such owner has agreed to deposit, with the County, on or before the Agreement Date, the "Master Letter of Credit," all as required by and pursuant to, and defined in, Section 6 of the Cuneo Land Management Agreement.

B. **Cuneo Additional Utility Facilities.** The Village shall pay, or cause to be paid, the full Cuneo Additional Utility Facilities Cost. To ensure the ultimate completion of the design, construction, and installation of the Cuneo Additional Utility Facilities and payment of the full Cuneo Additional Utility Facilities Cost, the Village shall, as a condition to granting any Development Approval for any portion of the Cuneo Service Area, require the owner, subdivider, or developer seeking such Development Approval to deposit, and such owner,

subdivider, or developer shall deposit, with the Village, in the same form and subject to all of the same terms and conditions as required pursuant to Section 6 of the Cuneo Land Management Agreement, a letter of credit guarantying an amount not less than 125 percent of the County's estimate of the portion of the Cuneo Additional Utility Facilities Cost to be incurred in connection with the design, construction, installation, and placing in operation of those portions of the Cuneo Additional Utility Facilities necessary in connection with such Development Approval.

ARTICLE IV

SANITARY SEWER AND WATER SUPPLY SERVICE

4.1 County Obligation.

After the Cuneo Sewer and Water Systems, or any portion of such Systems, have been conveyed to, and accepted by, the County pursuant to Article III of this Agreement and have been placed in service, the County shall operate and maintain the Cuneo Sewer and Water Systems, or the portions of such Systems that have been conveyed to, and accepted by, the County pursuant to Article III of this Agreement, in accordance with its customary practices and good engineering principles. Use of the Cuneo Sewer and Water Systems shall be governed by the County Sewer and Water Ordinances and this Agreement.

4.2 Village Obligation.

Except as provided in Section 4.3 of this Agreement, no Sanitary Sewer or Water Supply Service to the Cuneo Service Area shall, at any time during the term of this Agreement, be permitted unless such Service is delivered by the County by and through the County-Vernon Hills Sewerage System and the County-Vernon Hills Waterworks System.

4.3 **Alternative Sanitary Sewer and Water Supply Services.**

A. **Alternative Services.** In the event the County is unable or unwilling to provide Sanitary Sewer or Water Supply Service up to the full capacity required pursuant to Section 5.3 of this Agreement for the Cuneo Service Area, and following proper notice pursuant to Subsection 4.3B of this Agreement and lack of County agreement to provide such Service, Section 4.2 of this Agreement shall no longer operate to prohibit the Village from making alternate lawful arrangements for any such Service that the County is unable or unwilling to provide.

B. **Notice.** Any notice required pursuant Subsection 4.3A of this Agreement shall be in writing and shall be delivered to the County not less than 90 days before the Village enters into any contract or other arrangement for any Sanitary Sewer or Water Supply Service to be delivered to the Cuneo Service Area by any service provider other than the County. Such notice shall specify the type and amount of such Service that the Village intends to receive from any other service provider and the basis for the conclusion that the County will not or cannot provide such Service. If, within 90 days after such notice is delivered to the County, the County agrees in writing to provide the required Service, the Village shall be required to take such Service from the County pursuant to this Agreement rather than from any other service provider.

4.4 **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 or Water Supply Services within any portion of the County, including the Cuneo Service Area.

ARTICLE V

CONDITIONS OF, AND LIMITATIONS ON, COUNTY PERFORMANCE

5.1 County Best Efforts.

Provided that the Village has fully and satisfactorily performed its undertakings, obligations, and commitments under this Agreement, the County shall, subject to the conditions and limitations set forth in this Article, use its best efforts to perform and complete all the undertakings, obligations, and commitments set forth in Subsection 3.1B and Section 4.1 of this Agreement, but the County shall not be responsible for any failure to perform caused by a Force Majeure.

5.2 Conditions Precedent to County Performance.

Notwithstanding any other provision of this Agreement, the right of the Village to receive Sanitary Sewer and Water Supply Services from the County pursuant to this Agreement, and the County's obligation to provide Sanitary Sewer and Water Supply Services to the Cuneo Service Area, shall be subject to all of the following conditions having first been satisfied:

- (a) Receipt by the County, at no expense to the County, of all necessary governmental approvals to operate all of the components of the County-Vernon Hills Sewerage System and the County-Vernon Hills Waterworks System as may be necessary to provide Sanitary Sewer and Water Supply Service to the Cuneo Service Area, or the portion of such Service Area for which such Services are being sought, pursuant to this Agreement.
- (b) Receipt by the County, at no expense to the County and by documents reasonably satisfactory to the County, of any and all easements, licenses, and permits, whether across portions of the Cuneo Property, other private property, Village property, or other public property, that the County determines in its sole discretion are necessary for the operation, maintenance, repair, removal, or replacement of the Cuneo Sewer and Water Systems, or the portions of such Systems to be placed in service, and any facilities related thereto to be owned or maintained by the County.

- (c) Construction and dedication to the County, at no expense to the County, of the Cuneo Sewer and Water Systems, or such portions of such Systems as are required by the County to be constructed and dedicated to enable the County to provide Sanitary Sewer and Water Supply Service to that portion of the Cuneo Service Area for which such Services are being sought.
- (d) Construction and dedication to the County, at no expense to the County and at such locations and in such number and size as the County determines in its sole discretion to be appropriate, of such points of connection between the Cuneo Sewer System and the County-Vernon Hills Sewerage System and between the Cuneo Water System and the County-Vernon Hills Waterworks System as may be necessary to provide the Services being sought.
- (e) Construction and dedication to the County, at no expense to the County and at such location and in such size as the County determines in its sole discretion to be appropriate, of a point of connection between the Cuneo Sewage Transportation Facilities and the existing Village of Libertyville 27-inch sewer transmission main located on the west side of Illinois Route 21 in the vicinity of the EJ&E Railroad right-of-way, which point of connection shall be complete and available for operation before any Sanitary Sewer or Water Supply Service is provided within the Cuneo Service Area.
- (f) Completion of all work required pursuant to Subparagraphs 5.2 (c), (d), and (e) above:
 - (i) pursuant to applications, designs, plans and specifications, and contract documents reviewed and approved by the County;
 - (ii) pursuant to permits issued by the County;
 - (iii) in accordance with all applicable laws and regulations, including, without limitation, the County Sewer and Water Ordinances;
 - (iv) subject to inspection by the County to ensure compliance with the requirements of this Section and with the other terms and conditions of this Agreement and the County Sewer and Water Ordinances; and
 - (v) in a manner acceptable to the County.
- (g) The ability of the County to provide Sanitary Sewer and Water Supply Services as required by this Agreement without violating any applicable laws or regulations.
- (h) 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 Village and of the Customers in the Cuneo Service Area to receive Sanitary Sewer and Water Supply Service from the County, and the County's obligation to provide Sanitary Sewer and Water Supply Services within the Cuneo Service Area, shall be subject to the following limitations and conditions:

- (a) The total number of residential dwelling units receiving Sanitary Sewer and Water Supply Service within the Cuneo Service Area shall not exceed 2100. All such 2100 residential dwelling units shall be located within the Cuneo Residential Service Area.
- (b) The total amount of Sewage delivered to the Cuneo Sewage Collection Facilities from within the Cuneo Commercial Service Area shall not exceed 3400 P.E. Service within the Cuneo Commercial Service Area shall be limited to Retail Commercial, office, and hotel uses; provided, however, that in that portion of the Cuneo Commercial Service Area located south of the EJ&E Railroad right-of-way line and more than 1,000 feet west of the west right-of-way line of Milwaukee Avenue, as such right-of-way lines are legally established or adjusted from time-to-time, Retail Commercial use shall be restricted to Retail Commercial uses that are directly ancillary to, and located within and operated as part of, an office or hotel operation or use. The Cuneo Commercial Service Area shall not exceed 147 acres.
- (c) Water Supply Service within the Cuneo Service Area shall be commensurate with the aforesaid levels of Sanitary Sewer Service.
- (d) The number, size, and location of all points of connection between the Cuneo Sewage Collection Facilities and the County-Vernon Hills Interceptors and between the Cuneo Water Distribution Facilities and the County-Vernon Hills Waterworks System shall be as shown on Exhibits C, D, E, F, G, H, and I attached hereto or as otherwise approved or required by the County.
- (e) Neither the Village nor any Customer within the Cuneo Service Area shall discharge any Industrial Waste to the County-Vernon Hills Sewerage System, and the County shall not be required to accept any Industrial Waste from the Cuneo Service Area.
- (f) The Sanitary Sewer and Water Supply Services to be provided by the County pursuant to this Agreement shall be on a first come-first served basis and within the limits of available capacity.

- (g) The Sanitary Sewer and Water Supply Services to be provided by the County pursuant to this Agreement shall be subject to the County Sewer and Water Ordinances and all other applicable laws, ordinances, rules, and regulations, including any Pretreatment standards.
- (h) The Sanitary Sewer and Water Supply Services to be provided by the County pursuant to this Agreement shall be subject to all other terms and conditions of this Agreement.

ARTICLE VI

COUNTY CHARGES AND FEES

6.1 Service Conditioned on Payment.

Notwithstanding any other provision of this Agreement, the County shall have no obligation to provide Sanitary Sewer or Water Supply Services to any Customer unless all County Connection Charges and Sewer and Water User Fees required by the County for such Services have been paid.

6.2 Connection Charges.

A. Sanitary Sewer Connection Charges. Every Customer connecting, either directly or indirectly, to the County-Vernon Hills Sewerage System shall pay to the County a Connection Charge at the same rate as the County from time-to-time charges for similar Sanitary Sewer Services provided outside the Cuneo Service Area by the County through the County-Vernon Hills Sewerage System. The County shall be solely responsible for setting, billing, and collecting all Sanitary Sewer Connection Charges.

B. Water Supply Connection Charges. Every Customer connecting, either directly or indirectly, to the County-Vernon Hills Waterworks System shall pay to the County a Connection Charge at the same rate as the County from time-to-time charges for similar Water Supply Services provided outside the Cuneo Service Area by the County through the County-

Vernon Hills Waterworks System. The County shall be solely responsible for setting, billing and collecting all Water Supply Connection Charges.

6.3 Sewer and Water User Fees.

A. Sewer User Fees. The County shall issue bills for, and shall be entitled to payment of, Sewer User Fees based upon the actual volume, strength, and composition of Sewage delivered to the County-Vernon Hills Sewerage System from each Customer. The County shall be solely responsible for setting, billing, and collecting Sewer User Fees.

B. Water User Fees. The County shall issue bills for, and shall be entitled to payment of, Water User Fees based upon the actual volume of water delivered from the County-Vernon Hills Waterworks System to each Customer. The County shall be solely responsible for setting, billing, and collecting Sewer User Fees.

C. Level of Fees. Sewer and Water User Fees shall be uniform for all users, including Customers, of the County-Vernon Hills Sewerage System and the County-Vernon Hills Waterworks System receiving similar service. Such Sewer and Water User Fees shall at all times be set at levels designed to assure that the County revenues from such Fees will always be sufficient, when considered in light of any other monies legally available for and applied to such purposes, (1) to provide adequate and proper levels of service; (2) to pay the County's costs of maintenance, replacement, and operation of the County-Vernon Hills Sewerage and Waterworks Systems, including the Cuneo Sewer and Water Systems; (3) to pay the principal of, and premiums and interest upon, bonds secured, in whole or in part, by the revenues of the County-Vernon Hills Sewerage System or the County-Vernon Hills Waterworks System; (4) to provide a reasonable depreciation fund; and (5) 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, or improvement of the County-Vernon Hills Sewerage System and the County-Vernon Hills Waterworks System.

6.4 **Metering.**

The County shall have the right to establish and enforce reasonable requirements for all Customers for the installation, calibration, inspection, maintenance, repair, and replacement of meters to measure each Customer's water consumption for billing and other purposes. Nothing in this Section shall be deemed to limit the County's ability to estimate any Customer's water consumption for purposes of establishing Sewer or Water User Fees.

ARTICLE VII

OWNERSHIP AND MAINTENANCE

After the Cuneo Sewer and Water Systems, or any portion of such Systems, have been conveyed to, and accepted by, the County pursuant to Article III of this Agreement, the County shall be the sole owner of, and shall have the duty to maintain, the Cuneo Sewer and Water Systems, or such portions of such Systems that have been conveyed to, and accepted by, the County pursuant to Article III of this Agreement, as part of, respectively, the County-Vernon Hills Sewerage System and the County-Vernon Hills Waterworks System. Nothing in this Agreement shall be construed to give the Village, or any other person or entity, except the County, any ownership or other interest in any part of either the County-Vernon Hills Sewerage System or the County-Vernon Hills Waterworks System.

ARTICLE VIII

OTHER CONTRACTS AND SERVICE

8.1 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 under this Agreement; provided, however, that nothing in this Agreement shall be construed to require the County to provide Sanitary Sewer or Water Supply Service to any area of the Village other than the Cuneo Service Area.

8.2 Village Acknowledgements.

The Village acknowledges and agrees that: (1) the County does not act or operate as a public or private utility; (2) the County does not act or operate in a business or proprietary capacity in providing Sanitary Sewer and Water Supply Services to the Cuneo Service Area; (3) the County does not by this Agreement, or its performance pursuant to this Agreement, hold itself out as offering to provide Sanitary Sewer or Water Supply Services to any property or area other than the Cuneo Service Area; (4) the County is under no obligation to provide Sanitary Sewer or Water Supply Services to any property or area other than the Cuneo Service Area; and (5) the County's sole obligation to provide Sanitary Sewer and Water Supply Services to Customers is the contractual obligation set forth in this Agreement.

8.3 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 Village, to provide Sanitary Sewer and Water Supply Services to parties other than the Village on such terms and conditions as the

County may, in its sole discretion, determine to be appropriate, including, without limitation, Sanitary Sewer Service and Water Supply Service utilizing the Cuneo Sewer and Water Systems.

8.4 **Direct County Service Outside Cuneo Service Area.**

Notwithstanding anything in this Agreement to the contrary, the County may provide Sanitary Sewer Service and Water Supply Service directly, and without the Village's consent, to any customer within the Village but outside the Cuneo Service Area.

8.5 **No Third Party Beneficiaries.**

Nothing in this Agreement shall create, or shall be construed or interpreted to create, any third party beneficiary rights.

ARTICLE IX

LEGAL RELATIONSHIPS AND REQUIREMENTS

9.1 **Entire Agreement.**

There are no representations, covenants, promises, or obligations not contained in this Agreement, including the Exhibits attached hereto and incorporated herein, that form any part of this Agreement or upon which any of the parties is relying in entering into this Agreement.

9.2 **Exhibits.**

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

9.3 **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 Village by their respective corporate authorities and pursuant to resolutions duly adopted by said corporate authorities.

9.4 **Waivers.**

No term or condition of this Agreement shall be deemed waived by any 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.

9.5 **Interpretation and Severability.**

It is the intent of the County and the Village 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, including the Exhibits attached hereto, 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.

9.6 **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 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-Vernon Hills Sewerage System, the County-Vernon Hills Waterworks System, and the Cuneo Sewer and Water Systems.

9.7 **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 Village.

The Village 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 except that the County does hereby consent to the Village assigning its responsibilities under Subsection 3.1A of this Agreement with respect to the Cuneo Initial Utility Facilities to the owner and initial developer of the Cuneo Residential Service Area; provided, however, that such assignment shall be pursuant to an assignment and assumption agreement, and subject to performance security, approved in advance by the County. The County may, upon notice to the Village, assign this Agreement, in whole or in part, or any or all of the County's rights or obligations under this Agreement, without the consent of the Village.

9.8 **Effective Date and Term.**

A. **Effective Date.** Subject to Subsection 2.H of the Cuneo Land Management Agreement, this Agreement shall take effect as of the date first above written when executed by the duly authorized representatives of the County and the Village.

B. **Right to Terminate.** If, and at any time after, the Cuneo Land Management Agreement is terminated pursuant to Subsection 4.B of said Agreement, either the County or the Village may terminate this Agreement by giving written notice of such termination to the other party in the manner provided in Section 9.9 of this Agreement. Upon such termination, this Agreement shall cease to be of any force or effect.

C. **Effect and Use of Agreement Following Termination.** If this Agreement is terminated pursuant to Subsection 9.8B of this Agreement, nothing in this Agreement shall thereafter affect or waive, or be construed to affect or waive, any of the rights and obligations of the County, the Village, the owners of the Cuneo Property, or any other party, with respect to the provision of Sanitary Sewer Service or Water Supply Service to the Cuneo Property, and this Agreement shall not thereafter be admissible in any court or before any governmental or administrative agency for any purpose.

D. **Term.** Unless sooner terminated pursuant to Subsection 9.8B of this Agreement, this Agreement shall be in full force and effect for a period of 30 years from and after its Effective Date.

9.9 **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 60085
Attn: County Administrator

and

Lake County Department of Public Works
650 Winchester Road
Libertyville, Illinois 60048

For notices and communications to the Village:

Village of Vernon Hills
290 Evergreen Drive
Vernon Hills, Illinois 60061
Attn: Village Manager

By notice complying with the foregoing requirements of this Section, 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.

9.10 **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.

9.11 **Enforcement.**

A. **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 the Village shall not seek or recover monetary damages against the County or any of its officials, agents, representatives, attorneys, or employees on account of the negotiation, execution, or breach of any of the terms and conditions of this Agreement.

B. Attorney Fees. Notwithstanding the aforesaid limitation on money damages, the prevailing party in any judicial or administrative proceeding brought for enforcement or breach of any provision of this Agreement shall be entitled to reimbursement from the unsuccessful party of all costs and expenses, including reasonable attorneys' fees, incurred in connection with such judicial or administrative proceeding.

9.12 Cuneo Property Legal Description.

The County and the Village acknowledge that the Cuneo Property has not been specifically located and measured as of the Effective Date of this Agreement. The Cuneo Property is generally depicted on the Cuneo Service Area Map. On or before the Agreement Date, the Village shall have a survey conducted of the Cuneo Property and shall cause to be prepared an accurate legal description of the Cuneo Property. The legal description as so developed and prepared shall be attached to this Agreement, on or before the Agreement Date, as Exhibit A, and shall thereafter be treated for all purposes as a part of this Agreement in the same manner as if it had been attached to this Agreement at the time of its execution. The Village shall pay, or cause to be paid, the full cost for the survey and preparation of the legal description required pursuant to this Section.

IN WITNESS WHEREOF, the County and the Village have, by their duly authorized officers, set their hands and affixed their seals on the date first above written.

COUNTY OF LAKE

BY: _____
Robert W. Depke
Chairman, Lake County Board

ATTEST:

Willard Helander
County Clerk

(SEAL)

VILLAGE OF VERNON HILLS

BY: Roger L. Byrne
Roger L. Byrne
President

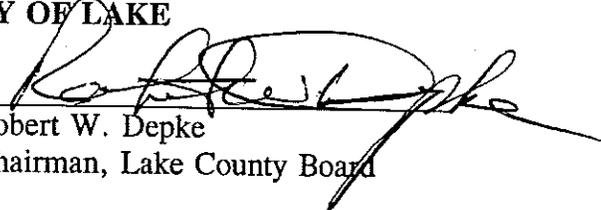
ATTEST:

Kathy Ryg
Kathy Ryg
Village Clerk

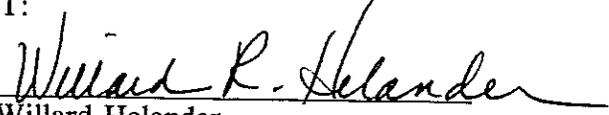
IN WITNESS WHEREOF, the County and the Village have, by their duly authorized officers, set their hands and affixed their seals on the date first above written.

COUNTY OF LAKE

BY:


Robert W. Depke
Chairman, Lake County Board

ATTEST:


Willard Helander
County Clerk

(SEAL)

VILLAGE OF VERNON HILLS

BY:

Roger L. Byrne
President

ATTEST:

Kathy Ryg
Village Clerk

LIST OF EXHIBITS

- EXHIBIT A: Cuneo Property Legal Description
- EXHIBIT B: Cuneo Service Area Map
- EXHIBIT C: Description of Cuneo Sewage Collection Facilities
- EXHIBIT D: Description of Cuneo Sewage Transportation Phase I Facilities
- EXHIBIT E: Description of Cuneo Sewage Transportation Phase II Facilities
- EXHIBIT F: Description of Cuneo Sewage Transportation Phase III Facilities
- EXHIBIT G: Description of Cuneo Water Distribution Facilities
- EXHIBIT H: Description of Cuneo Water Supply Phase I Facilities
- EXHIBIT I: Description of Cuneo Water Supply Phase II Facilities