

**AN INTERGOVERNMENTAL AGREEMENT BETWEEN
THE CITY OF LOCKPORT AND
THE VILLAGE OF HOMER GLEN
FOR WASTEWATER TREATMENT SERVICES**

THIS INTERGOVERNMENTAL AGREEMENT, is made and entered into this 15th day of September, 2018, by and between the **CITY OF LOCKPORT**, an Illinois municipal corporation and home rule unit of local government (hereinafter referred to as “Lockport”), the **VILLAGE OF HOMER GLEN** an Illinois municipal corporation and home rule unit of local government (hereinafter known as “Homer Glen”), and Bonnie Brae-Forest Manor Sanitary District, an Illinois sanitary district (hereinafter known as “Bonnie Brae”).

WITNESSETH

WHEREAS, Lockport is the owner and operator of wastewater treatment and trunk line facilities in and around the City of Lockport, Illinois, and will provide treatment for a portion of Homer Glen’s wastewater at the Bonnie Brae Wastewater Treatment Plant; and

WHEREAS, Homer Glen desires wastewater service from Lockport to treat the wastewater collected within portions of the corporate limits of Homer Glen by Homer Glen’s collection system; and

WHEREAS, Bonnie Brae is the owner of a wastewater connection line to which Homer Glen desires to connect its collection facilities for the transportation of wastewater to Lockport for treatment; and

WHEREAS, this Agreement is being entered pursuant to Intergovernmental Cooperation Act, which allows any power or powers, privileges, functions, or authority exercised or which may be exercised by a public body may be exercised, combined, transferred, and enjoyed jointly with any other public body of this State and to the extent that laws do not prohibit joint exercise or enjoyment and except where specifically and expressly prohibited by law. 5 ILCS 220/3.

NOW, THEREFORE, in consideration of foregoing premises and mutual promises,

agreements and covenants hereinafter made, it is mutually agreed, between Lockport, Homer Glen and Bonnie Brae as follows:

I. **DEFINITIONS**

All words, unless otherwise specified herein shall be defined as in the Code of Ordinances of Lockport as in effect on the date of this Agreement or as hereinafter amended. Unless otherwise specified, the term “parties” shall mean Lockport and Homer Glen and the term “party” shall only mean either Lockport or Homer Glen.

II. **SEWER CONSTRUCTION**

(a) **Connection Facilities.**

Homer Glen will construct or cause to be constructed collections facilities to transport wastewater to Lockport’s system. Such facilities will be the property of Homer Glen and Homer Glen shall be responsible for the operation and maintenance thereof.

Homer Glen shall use or cause to be used good-faith efforts to have the facilities installed and operational by June 30, 2019.

(b) **Approval of Construction Plans and Methods.**

The construction of the aforementioned facilities installed pursuant to this Agreement shall not commence until the plans including, but not limited to engineering drawings and supporting calculations, and specifications therefore have been approved by Lockport, and by any State or Federal agencies from which approval must be secured by law. Approval by Lockport shall only be withheld due to deficiencies in plans and specifications. Further, Lockport shall have the right to monitor, inspect, and enforce compliance with the original approved plans and specifications. There shall be no deviations from the approved plans and specifications without prior approval by Lockport and any applicable State and Federal authorities from which approval must be secured by law.

(c) Comprehensive Liability.

No construction shall commence under the terms of this agreement until Homer Glen has supplied to Lockport proof of insurance coverage by all the contractors and subcontractors in the form of certificates of insurance which name Homer Glen, Lockport and Bonnie Brae as additional insured with the following amount and types of coverage:

Comprehensive General Liability

Personal Injury:	\$1,000,000 / person \$2,000,000 / occurrence
Property Damage:	\$2,000,000 / occurrence
Workers Compensation:	statutory amount

(d) Property Acquisition and Approval.

Homer Glen shall be responsible for the acquisition of all the necessary right of ways or easements of whatsoever nature to construct, operate, and maintain such facilities and also for the securing of all the construction permits or approvals recorded under law. This shall be accomplished at the sole expense of Homer Glen.

(e) Connection Point.

The wastewater collection facilities to be constructed by Homer Glen shall connect to Lockport's system at the following location:

Existing 18-inch diameter sanitary sewer at Gougar Road approximately 3,000 feet north of 159th Street, tributary to the Bonnie Brae Wastewater Treatment Plant.

(f) Connection Fee.

Homer Glen shall pay a one-time connection fee to Bonnie Brae in the sum of \$50,000 for the full and complete right to connect to the Bonnie Brae connection line for the transportation of wastewater to Lockport for treatment. Neither Homer Glen nor Lockport shall be obligated to pay Bonnie Brae for any future tap-on fees or any portion of connection fees

from future customers connecting to the Homer Glen collection facilities. The payment of \$50,000 to Bonnie Brae shall constitute as a full satisfaction of any and all claims that Bonnie Brae may have related to Homer Glen's connection and Lockport's treatment of Homer Glen's wastewater as contained in this Agreement.

III. LOCKPORT TO PROVIDE WASTEWATER TREATMENT SERVICES

(a) Provision of Treatment Services.

Homer Glen agrees to transmit, and Lockport agrees to treat, all wastewater originating in that portion of the area identified and marked as the proposed Fiddymment Creek Sanitary Sewer Boundary on Attachment A attached and incorporated to this Agreement which is located within the Lockport Facility Planning Area and corporate limits of Homer Glen (the "Homer Glen Service Area").

The foregoing notwithstanding, Lockport will only be required to accept wastewater from the Homer Glen Service Area that meets all applicable requirements of Lockport, State and Federal regulations for treatment by Lockport.

(b) Responsibility to Prevent Improper Discharges into Lockport's System.

Homer Glen shall effectively prohibit and exclude from that portion of its sanitary sewer system tributary to Lockport the following: (1) any wastes which may directly or indirectly impair the structural durability of the Lockport conveyance system, or its hydraulic functions; (2) wastes which may have deleterious effect on the Lockport wastewater treatment plant structures or processes; (3) wastes whose pollutional effects are not effectively altered by ordinary treatment processes and whose presence in the receiving stream would violate State or Federal water quality standards; (4) wastes whose presence in the sewers would create a hazard to public health and safety; (5) wastes which are prohibited by any State or Federal statute, rule or regulation.

As to the Homer Glen Service Area, Homer Glen shall be subject to the same ordinances and regulations regarding unacceptable waste discharges as Lockport now imposes, or may in the future impose, upon the users of the Lockport sewer system, and it shall not be a Homer Glen defense to any legal action by Lockport against Homer Glen that any of the aforementioned materials were introduced into its system by a third party or parties without Homer Glen's knowledge or consent. Homer Glen alone shall be liable to Lockport for any surcharges for unacceptable waste discharges from Homer Glen's system into Lockport's system. The Rules and Regulations of service established by Homer Glen shall contain the same provisions regarding unacceptable discharge as Lockport now imposes or may, in the future, impose upon the users of Lockport's system, and shall provide that Homer Glen shall impose a surcharge upon the users of Homer Glen's system regarding unacceptable waste discharged into Homer Glen's system.

Lockport agrees to notify Homer Glen in writing, of any proposed ordinances or regulations which would change, alter or amend the current Lockport ordinances and regulations regarding unacceptable waste discharges so as to enable and permit Homer Glen to be heard by the Lockport administration and/or City Council before the adoption of any such ordinances or regulations. Lockport shall be required to notify Homer Glen as soon as possible after any such proposals are formulated and in no event at least fifteen (15) days before any hearings to be conducted on such proposals before the City Council.

(c) Regulatory Requirements.

Homer Glen shall be required to adopt and administer within their own Code of Ordinances, Lockport Code of Ordinances as contained in Chapter 51 entitled "Use of Public Sewers" and Chapter 55 entitled "Pretreatment Regulations."

Homer Glen shall be subject to requirements in Lockport's National Pollutant Discharge

Elimination System (“NPDES”) permit as such pertaining to the collection and transport facilities.

(d) Testing.

Homer Glen shall semi-annually inspect, monitor, sample and test its sanitary sewer system and notify Lockport of its sampling and testing data. If it so chooses, Lockport shall be authorized to sample and test the sanitary sewer system quarterly. Lockport shall notify Homer Glen of all sampling and testing conducted pursuant to this paragraph sufficiently in advance to permit representatives of Homer Glen to be present at the time such sample or testing is conducted. Lockport shall test the quality of sewage by collecting 24-hour composite samples or grab samples which shall be taken from the sanitary sewer system within the Homer Glen Service Area. These samples may be analyzed by Lockport with copies of the analyses sent to Homer Glen. If analyzed by Lockport, Homer Glen shall pay the following charges to Lockport for analyses each time performed:

Sampling Charge	actual cost
B.O.D. Analysis	actual cost
Suspended Solids Analysis	actual cost
pH Determination	actual cost
All Other Tests	actual cost

Should any analysis show that any of Homer Glen’s discharges or industrial discharges into the Lockport System are in non-compliance with any Lockport, State or Federal regulations dealing with pollutant or contaminant levels, Homer Glen shall immediately upon written notice from Lockport take all steps necessary to re-establish compliance. Such notice shall not preclude any other remedy to secure compliance available to Lockport under this Agreement, or in law or at equity.

(e) Establishing Base Line Application.

Homer Glen agrees that prior to accepting wastewater to be treated by Lockport from any discharger or combination of discharges that would exceed 50,000 gallons per day or from any user that would discharge non-compatible pollutants or be classified as industry, Homer Glen will advise Lockport so that Lockport may obtain a base line application for the proposed user. This base line application will be used for determining the impact of the proposed user on the system, the pretreatment necessary, if any, and for establishing the criteria for the discharge permit that Lockport is required to issue to any industrial discharger. Users of the Homer Glen system at the time of connection must provide the base line report, install the necessary pretreatment and demonstrate compliance with Lockport's requirements prior to Homer Glen's discharging that new user's wastewater to the Lockport system.

IV. MEASUREMENT OF HOMER GLEN'S WASTEWATER FLOW

(a) Metering Devices.

To measure the volume of wastewater discharged from the sanitary sewer system of Homer Glen into the sewer system of Lockport, an accurate metering device acceptable to Lockport shall be provided and maintained by Homer Glen at the Gougar Road connection point (P.I.N. 16-05-18-200-022-0000 and 16-05-18-200-023-0000).

The metering device shall be equipped with remote registering and recording mechanisms which record and store depth of flow (inches) and the rate of flow (gallons per minute) at maximum 15-minute intervals, and which calculate and store the instantaneous data of the following: daily minimum, maximum, and average flow rates (gallons per minute); and totalize the daily, weekly, and monthly volume of wastewater passing through the meter.

(b) Lockport Approval of Placement and Construction.

The type and location of the sewage meter and all plans including, but not limited to

engineering drawings and supporting calculations, and specifications and details pertinent thereto shall be subject to the written approval of Lockport. Lockport shall not unreasonably withhold its approval.

(c) Reading and Recording.

The reading and recording of results of the metering device shall be done by Lockport and Homer Glen. For the purpose of billing, Lockport will conduct its reading on or about the 15th of each month. Lockport shall have access to manual reading of the metering device in circumstances in which remote reading cannot be completed.

(d) Homer Glen Maintenance Responsibility.

Homer Glen shall provide and continuously maintain and operate the metering device and cause same to be promptly repaired or replaced at its sole expense. In addition, Homer Glen shall repair or replace the metering device upon written notice from Lockport.

(e) Annual Testing.

The sewage metering device used to measure the volume of wastewater discharged from the sanitary sewer system of Homer Glen into the sewer system of Lockport shall be tested for accuracy by a third party qualified or certified by the manufacturer of said device no less frequently than annually at Homer Glen's expense. Homer Glen shall supply copies of test results to Lockport prior to each annual anniversary date of this Agreement.

(f) Access, Testing and Calibration.

(1) Either party shall have the right of access to the metering device and recording instruments for the purpose of making accuracy or calibration tests. Such tests shall be made only after giving the other party five (5) days prior written notice of the time and place that the tests are to be performed.

(2) If tests indicate that a metering device has not properly measured the

volume of sewage through the meter, a reasonable adjustment of the measured sewage flow and past billings shall be made by Lockport by comparing the metered daily average flow to the annual average daily flow and the average daily flow for the same time period in the previous year. The flow to be billed shall be adjusted to the greater of the annual average flow and the flow for the previous period. The billings shall be adjusted for the time periods as follows:

(A) If the daily meter readings indicate a sudden failure of the meter to accurately measure the flow, that is, an identifiable increase or decrease in average daily measurements, flows shall be adjusted for the time period from the date of the failure until the date the repairs are completed.

(B) If no identifiable failure time can be established, flows shall be adjusted for a period beginning thirty (30) days prior to the annual testing or of either party giving notice of the need for metering adjustments and ending with the date repairs are completed.

V. **CHARGES, RATES, NOTICE AND PAYMENT**

(a) **Charges (Other Than Connection Charges).**

(1) Homer Glen shall pay to Lockport a Monthly Sewer Service Charge based on the total quantity of sewage transmitted to the Lockport system, as measured by the metering device at the Gougar Road connection point and any other metering devices the parties may hereafter install. If the monthly bill is not paid within 30 days from the date of the issuance of the bill, penalty and interest shall apply pursuant to Chapter 51 of Lockport's Code of Ordinances.

(2) From the date of this Agreement to July 1, 2024, Lockport shall bill Homer Glen at a rate which is no greater than eighty-five percent (85%) of Lockport's non-discounted residential user rate as prescribed and in effect under Chapter 51 of Lockport's Code of Ordinances.

(2) After July 1, 2024, Lockport shall bill Homer Glen at a rate which is no greater than one hundred percent (100%) of Lockport's non-discounted residential user rate as prescribed and in effect under Chapter 51 of Lockport's Code of Ordinances.

(b) Notice of Surcharges.

Lockport agrees to immediately notify, in writing, Homer Glen and the offending user as soon as it becomes aware of any violation of discharge standards or any condition which may result in the imposition of a surcharge called for in this Agreement or as prescribed and in effect under Chapter 51 of Lockport's Code of Ordinances so as to enable Homer Glen and/or the user to take corrective action to eliminate said violation or condition. Said written notice shall include a copy of any and all test results and/or written reports concerning said violations.

Lockport, at the time of billing Homer Glen for any surcharge, shall provide Homer Glen with copies of all test results and data as to each individual user along with the calculations in support of the surcharge imposed as prescribed and in effect under § 51.087 of Chapter 51 of Lockport's Code of Ordinances.

(c) Compliance With Laws Regarding User Charges.

Each party hereto agrees to comply with all applicable Federal and State statutes and regulations pertaining to the imposition of fair and equitable user charges covering the cost of construction and for the operation and maintenance of the system. In the event there are no Federal or State statutes or regulations pertaining to equitable user charges, then Lockport and Homer Glen agree that such user charge shall not be arbitrary and capricious.

VI. TREATMENT AREA

Homer Glen agrees to transmit, and Lockport agrees to treat, all wastewater originating in the Homer Glen Service Area which is identified on Attachment A to this Agreement. Homer Glen acknowledges that the Homer Glen Service Area is located within the Lockport FPA

(Facilities Planning Area). Lockport acknowledges that will provide treatment to wastewater originating in the Homer Glen Service Area.

VII. USE OF RIGHT OF WAY

In addition to any other right or entitlement either party may have or hereafter acquire, each party agrees to grant the other party the reasonable use of its public rights of way for the construction, operation and maintenance of its respective public utility systems. There shall be no fee or other charge imposed for the use of such rights of way. Provided, however, that a party using a right of way of the other party shall promptly reimburse such other party for its actual out of pocket expenses incurred in the review of a request to use the right of way. A party using the right of way of the other party shall comply with reasonable permit conditions established to protect, repair and restore the right of way and its appurtenances. A party using the right of way of the other party shall defend and indemnify the other party from and against any claim asserted by a third party in connection with said party's use of the right of way.

VIII. HOMER GLEN'S INABILITY TO MEET FINANCIAL OBLIGATION

If Homer Glen is in default in any payment to be made hereunder and it reasonably appears to Lockport that Homer Glen is unable to meet its financial obligations under this Agreement or if Homer Glen's discharge to Lockport is in noncompliance with any Lockport, State or Federal regulations dealing with pollutant, contaminants, or excess flow levels, Homer Glen agrees that Lockport may exercise one or more of the following options:

(a) Upon ninety (90) days written notice thereof, Lockport may terminate its services to Homer Glen without further notice; provided, however, that such termination complies with all local State and Federal laws and regulations pertaining thereto; and provided further, that services to Homer Glen shall not be terminated if, prior to expiration of ninety (90) days from the written notice from Lockport, Homer Glen has met its financial obligations under this Agreement

or has made reasonable arrangements to meet such obligations, or in the case of non-compliance with discharge limitations, has brought its discharges into compliance with Lockport, State or Federal regulations dealing with pollutant, or contaminants, or excess flow levels.

(b) The parties may pursue any other remedies available to them at law or in equity.

(c) In order to maintain a continuity of service, Homer Glen shall have the right to make any payment of a disputed fee “under protest” which payment shall be subject to a refund in the event of a judicial decision in Homer Glen’s favor.

IX. ENFORCEABILITY

This Agreement shall be enforceable in any court of competent jurisdiction by any of the parties hereto by an appropriate action at law or equity to secure the performance of the covenants herein contained, including the remedies of injunction, mandatory injunction and specific performance.

X. HOLD HARMLESS

Homer Glen shall save, defend and hold Lockport and its agents, officials and employees harmless against any and all claims for damages by third parties, enforcement action by any State or Federal agency, or litigation including therein all costs, settlements, and fines and reasonable attorney fees, as a result of any violations or breaches of this Agreement by Homer Glen.

Lockport shall save, defend and hold Homer Glen and its agents, officials and employees harmless against any and all claims for damages by third parties, enforcement action by any State or Federal agency or litigation including therein all costs, settlements and fines and reasonable attorney fees, as a result of any violations or breaches of this Agreement by Lockport.

Lockport and Homer Glen specifically reserve any claim, privilege, immunity and defense accorded them under law.

XI. DISPOSAL OF SYSTEM

With regard to that portion of the Homer Glen system tributary to Lockport's wastewater system, Homer Glen shall not sell or otherwise dispose of any portion of its system unless and until Homer Glen shall first offer to Lockport the first option to purchase the system at the same price and on the same conditions as any bona fide offer previously made, as the case may be. Homer Glen shall notify Lockport in writing within ten (10) days of such offer and Lockport shall have a forty-five (45) day period beginning on the date of receipt of written notice of the previously made written offer to exercise such option. If Lockport fails to exercise its option to purchase Homer Glen's system in accordance with the provisions of this Section, and Homer Glen sells or otherwise disposes of its sewer system or any portion thereof, be it voluntarily or involuntarily through insolvency, receivership or eminent domain proceedings, then Homer Glen shall transfer or convey the system or any portion thereof with the stipulation that the terms of this Agreement shall be binding on the transferee or successor in interest for the remaining term of this Agreement.

For purposes of this Paragraph, the term "System" is limited to and intended to mean that equipment and those structures which have been installed or constructed solely for the purpose of providing wastewater collection and treatment by the City of Lockport. "System" specifically does not include any real estate or interests in any real estate which Homer Glen may own, act or control in which such equipment or structures are located.

XII. TERM OF AGREEMENT

This Agreement shall be in full force and effect to January 1, 2030 for the initial term, and thereafter will continue for two (2) successive periods of ten (10) years each, unless either party gives written notice to the other party at least two (2) years prior to the end of the initial term or any singular 10-year period of its intent to terminate this Agreement or until modified by the parties, in accordance with provisions of this Agreement, subject to applicable Federal and

State rules and regulations.

XIII. AMENDMENTS

No amendments to this Agreement shall be effective unless accomplished by written agreement pursuant to proper authority granted by the governing corporate boards of Homer Glen and Lockport.

Section II (f) shall not be subject to any amendments by any parties to this Agreement and any amendments to this Agreement do not require approval by or from Bonnie Brae.

XIV. ASSIGNMENT

Except as hereinbefore provided, it is mutually understood and agreed upon by the parties that neither party shall assign, transfer or convey any right, title or interest in and to this Agreement without the written consent of the other, which consent shall not be unreasonably withheld.

XV. COOPERATION OF THE PARTIES

Both parties agree to timely perform the provisions hereof and to keep the other informed of a foreseeable problem or dispute deemed likely to arise in the performance hereof.

XVI. TIME IS OF THE ESSENCE

Both Homer Glen and Lockport recognize that time is of the essence.

XVII. RECITALS

The matters contained in the recitals to this Agreement are agreed by Lockport, Homer Glen and Bonnie Brae to be true and be interpreted as part of the Agreement by Lockport, Homer Glen and Bonnie Brae.

XIII. AGREEMENT COMPLETE.

The foregoing is intended to constitute a full and complete restatement and amendment of the Prior Agreements. There are no oral understandings or agreements not set forth in writing

herein.

XIX. EFFECTIVE DATE

This Agreement shall take effect on the date hereinabove first written.

XX. SEVERABILITY

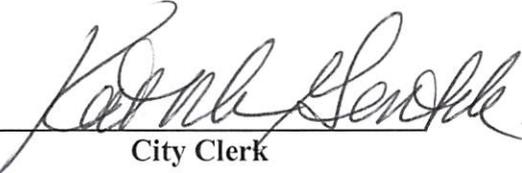
If any portion of this Agreement is held invalid by a court of competent jurisdiction or in the event such a court determines that either party does not have the power to perform any such provision, such provision shall be deemed to be excised from this Agreement and the invalidity thereof shall not affect any of the other provisions contained in this Agreement.

IN WITNESS WHEREOF, Lockport, Homer Glen and Bonnie Brae have caused this Agreement to be executed on the day and year first above written.

SEE NEXT PAGE FOR SIGNATURES

CITY OF LOCKPORT,
a municipal corporation

By: 
Mayor

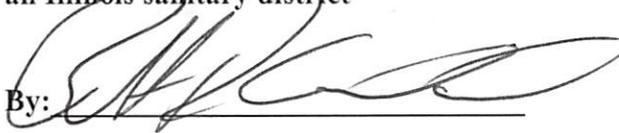
Attest: 
City Clerk

VILLAGE OF HOMER GLEN
a municipal corporation

By: 
Village President

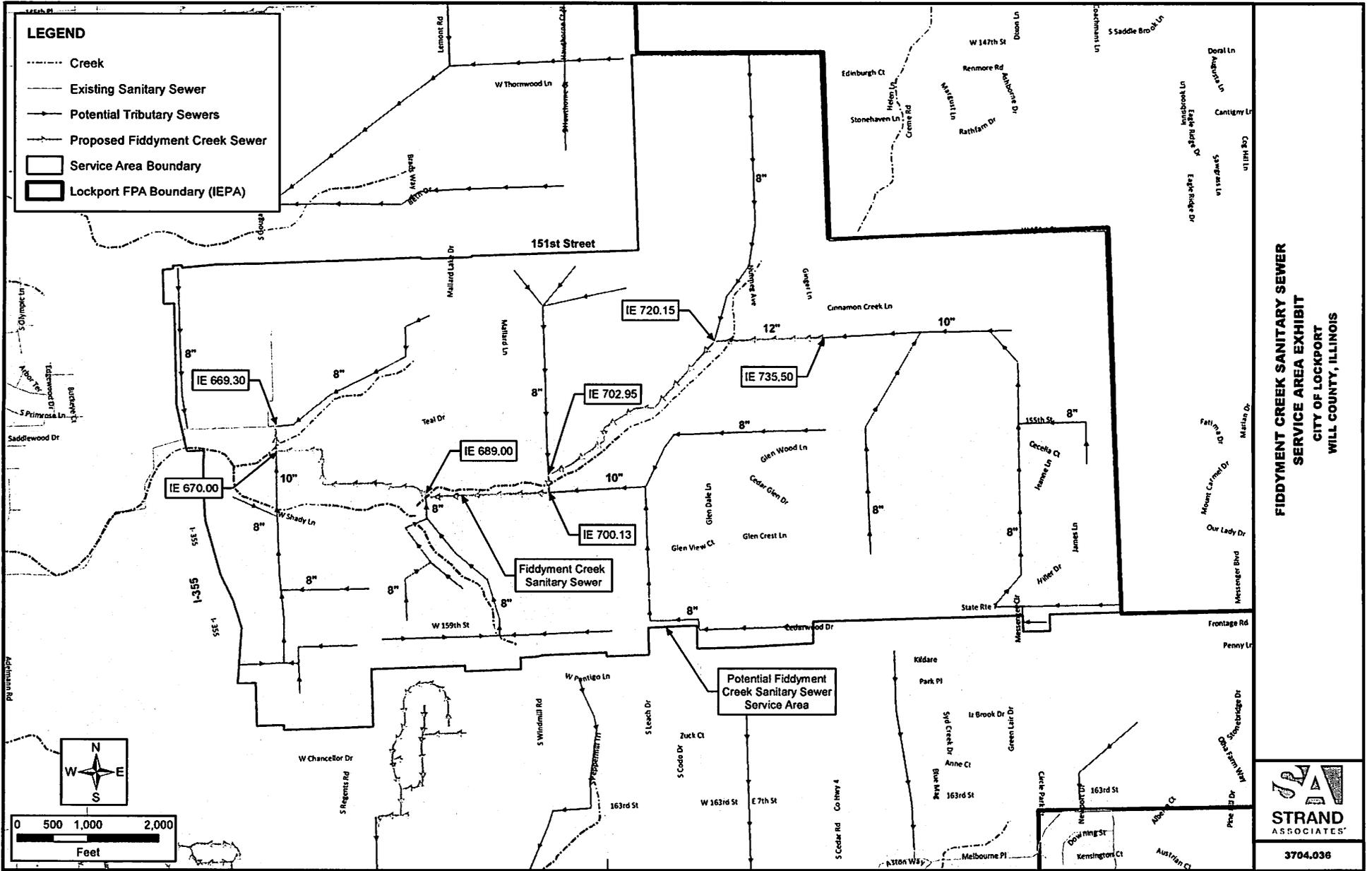
Attest: 
Village Clerk

BONNIE BRAE-FOREST MANOR
SANITARY DISTRICT,
an Illinois sanitary district

By: 

Attest: 

Attachment A



STRAND
ASSOCIATES

3704.036

MAP of Regional FPAs



CITY OF LOCKPORT SANITARY SEWER & WASTEWATER TREATMENT PLANT EXHIBIT



LEGEND

- CITY OF LOCKPORT SUB FACILITY PLANNING AREA
- BONNIE BRAE FOREST MANOR SANITARY DISTRICT SUB FACILITY PLANNING AREA
- LOCKPORT HEIGHTS SANITARY DISTRICT SUB FACILITY PLANNING AREA
- EXISTING TRUNK SANITARY SEWER
- PROPOSED TRUNK SANITARY SEWER
- PROPOSED SANITARY SEWER (FORCE MAIN)
- PROPOSED I-55 TOLLWAY

MAP OF BRFMNSD & LHSD Areas

ROBINSON ENGINEERING, LTD. 1000 W. 11TH STREET, SUITE 100 LOCKPORT, ILLINOIS 60459 TEL: 815-331-4400		REVISIONS
N.P.C. APPLICATION SANITARY SEWER AND WASTEWATER TREATMENT PLANT		No. Date Remarks
LOCKPORT ILLINOIS		
Drawn by: RJC	Date: 1/2001	
Checked by: RJC	Scale: AS SHOWN	
Issue: 1/01	Project No: 01-233	