

**TOWN OF ST. JOHN, LAKE COUNTY, INDIANA
RESOLUTION NO. 2016-09-22**

**A RESOLUTION AUTHORIZING ENTRY INTO THE FIRST AMENDMENT
AND RESTATEMENT OF THE JANUARY 1 , 2001, JOINT INTERLOCAL
COOPERATION AGREEMENT FOR SEWAGE TREATMENT BY AND
BETWEEN THE TOWN OF SCHERERVILLE, INDIANA, AND THE TOWN OF
ST. JOHN, INDIANA, FOR MUTUAL BENEFIT, AND ALL MATTERS
RELATED THERETO.**

WHEREAS, the Town Council of the Town of St. John, Lake County, Indiana (hereinafter, the "Town Council"), has been advised that the provisions of I.C. §36-1-7-1, et seq., as amended from time to time, permit local governmental units and entities to make the most efficient use of their powers by enabling such governmental units to mutually contract and utilize services for the mutual benefit of the participating governmental entities; and

WHEREAS, the Town of Schererville, Lake County, Indiana (hereinafter, "Schererville"), is a Municipal Corporation and Special Taxing District which operates and provides a municipal sewer utility service for the residents of Schererville and operates an approved Publicly Owned Treatment Works (POTW), or Wastewater Treatment Plant (WWTP) facility, for the treatment of wastewater, liquid wastes, and sewage collected in Schererville and the Town of St. John, and elsewhere, and as such, is empowered by the terms and provisions of I.C. §36-1-7-1, et seq., as amended from time to time, to enter into agreements with participating governmental units for the treatment of wastewater, liquid wastes, and sewage for the mutual benefit of participating governmental units; and

WHEREAS, the Town of Schererville, Lake County, Indiana, is also a Municipal Corporation and Special Taxing District empowered by the terms and provisions of I.C. §36-1-7-1, et seq., as amended from time to time, to enter into agreements with other local governmental units for the purpose of treatment of wastewater, liquid waste, and sewage collected for the mutual benefit of the participating governmental units; and

WHEREAS, the Towns of Schererville and St. John, each located in Lake County, Indiana, as Municipal Corporations and Special Taxing Districts, have entered into a Joint Interlocal Cooperation Agreement, based upon the terms and provisions of I.C. §36-1-7-1, et seq., as amended from time to time, together, in October, 2001, with such Agreement effective January 1, 2001, for transmission, collection, acceptance and treatment by Schererville of the wastewater, liquid wastes, and sewage transmitted from St. John for collection, processing, treatment and discharge of sewage, liquid waste, and wastewater received from St. John for the mutual benefit of the participating governmental units, at shared costs, and as set forth in said Sewage Treatment Agreement; and

WHEREAS, the Town Council of the Town of St. John, Lake County, Indiana (hereafter, the "Town Council"), determined in 2001 that entry into such a Joint Interlocal Cooperation Agreement with the Town of Schererville and the Special Taxing District of the Town of Schererville under the jurisdictional authority of the Schererville Utility Board for Sewage Treatment purposes, as described herein, at shared costs, was in the best interests of the residents of the Town of St. John, and therefore, determined at that time that it was advisable and appropriate to enter into and become a participating unit under such a Joint Interlocal Cooperation Agreement pursuant to the applicable provisions of Indiana State Law; and

WHEREAS, the Town Council has now been informed and advised that a First Amendment and Restatement of the January 1, 2001 Joint Interlocal Cooperation Agreement for Sewage Treatment by and between the Town of Schererville, Indiana, and the Town of St. John, Indiana, is appropriate and advisable to address substantive amendments in said Sewage Treatment Agreement for change of Capacity/Allocation terms between the parties, as well as amendment in the various provisions for periodic operation and maintenance rate review and true-up report requirements changing same from biennial to a five (5) year period and other related and relevant terms and matters; and

WHEREAS, the Town Council, being duly advised by its Administrative Staff and Financial Advisors, and having reviewed the proposed First Amendment and Restatement of the January 1, 2001 Joint Interlocal Cooperation Agreement for Sewage Treatment by and between the Town of Schererville, Indiana, and the Town of St. John, Indiana, now concurs that said First Amendment and Restatement of the January 1, 2001 Joint Interlocal Cooperation Agreement for Sewage Treatment by and between the Town of Schererville, Indiana, and the Town of St. John, Indiana, is appropriate and advisable, and as such, agrees to enter into the First Amendment and Restatement of the January 1, 2001 Joint Interlocal Cooperation Agreement for Sewage Treatment by and between the Town of Schererville, Indiana, and the Town of St. John, Indiana, in conformance with the provisions of applicable law.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF ST. JOHN, LAKE COUNTY, INDIANA, AS FOLLOWS:

SECTION ONE: That the Town Council of the Town of St. John, Lake County, Indiana, shall take all appropriate and legal measures to enter into the First Amendment and Restatement of the January 1, 2001 Joint Interlocal Cooperation Agreement for Sewage Treatment by and between the Town of Schererville, Indiana, and the Town of St. John, Indiana, as set forth and described therein, for the mutual benefit of the two (2) Towns and Sewer Districts, at shared costs.

SECTION TWO: That the Town Council is hereby authorized and directed to execute and enter into the First Amendment and Restatement of the January 1, 2001 Joint Interlocal Cooperation Agreement for Sewage Treatment by and between the Town of Schererville, Indiana, and the Town of St. John, Indiana, for the mutual benefit of the Towns of Schererville and St. John, at shared costs, pursuant to the applicable provisions of I.C. §36-1-7-1, et seq., as amended from time to time. Further, that the Town Clerk – Treasurer is hereby authorized to attest the First Amendment and Restatement of the January 1, 2001 Joint Interlocal Cooperation Agreement for Sewage Treatment by and between the Town of Schererville, Indiana, and the Town of St. John, Indiana, executed on behalf of the Town of St. John by its Town Council. Further, that the First Amendment and Restatement of the January 1, 2001 Joint Interlocal Cooperation Agreement for Sewage Treatment by and between the Town of Schererville, Indiana, and the Town of St. John, Indiana, is attached hereto and incorporated herein in all its terms, as Exhibit “A”, with the same bearing an effective date of October _____, 2016.

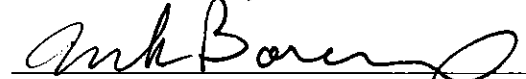
SECTION THREE: That the Town Council concurs and agrees to the terms and provisions of the First Amendment and Restatement of the January 1, 2001 Joint Interlocal Cooperation Agreement for Sewage Treatment by and between the Town of Schererville, Indiana, and the Town of St. John, Indiana, for Sewage Treatment as set forth and attached hereto as Exhibit “A”, and directs that all said terms and provisions contained therein be complied with and followed.

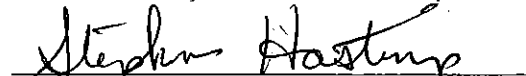
SECTION FOUR: That this Resolution authorizing the entry into First Amendment and Restatement of the January 1, 2001 Joint Interlocal Cooperation Agreement for Sewage Treatment by and between the Town of Schererville, Indiana, and the Town of St. John, Indiana, each in Lake County, Indiana, shall take effect, and be in full force and effect from and after its passage and approval by the Town Council of the Town of St. John, Lake County, Indiana.

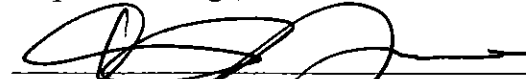
ALL OF WHICH IS PASSED AND RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF ST. JOHN, LAKE COUNTY, INDIANA, THIS 22 DAY OF September, 2016.

**TOWN OF ST. JOHN,
LAKE COUNTY, INDIANA,
TOWN COUNCIL**


Michael S. Forbes, President

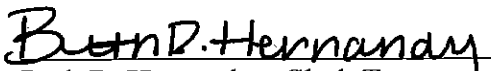

Mark Barenie, Vice-President


Stephen Hastings, Member


Christian J. Jorgensen, Member

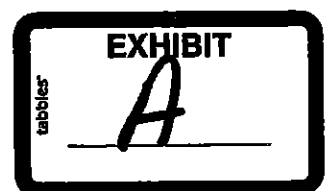

Gregory J. Volk, Member

ATTEST:


Beth R. Hernandez, Clerk Treasurer

FIRST AMENDMENT AND RESTATEMENT
OF THE
JANUARY 1, 2001
JOINT INTERLOCAL COOPERATION AGREEMENT
FOR
SEWAGE TREATMENT
BY AND
BETWEEN
THE TOWN OF SCHERERVILLE, INDIANA
and
THE TOWN OF ST. JOHN, INDIANA

EFFECTIVE DATE: _____



FIRST AMENDMENT AND RESTATEMENT
OF THE
JANUARY 1, 2001
JOINT INTERLOCAL COOPERATION AGREEMENT
FOR SEWAGE TREATMENT
BY AND BETWEEN
THE TOWN OF SCHERERVILLE, INDIANA
and
THE TOWN OF ST. JOHN, INDIANA

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1 THIS AGREEMENT (hereinafter referred to as the "Agreement"), entered into this
2 _____ day of _____, 2016 effective _____, by and between the
3 Town Council and Utility Board of the Town of Schererville, Lake County, Indiana, a Municipal
4 Corporation, (hereinafter referred to as "Schererville"), and the Sanitary District of the Town of
5 St. John, Lake County, Indiana, a special taxing district of the State of Indiana, and the Town
6 Council of the Town of St. John, Lake County, Indiana, a Municipal Corporation (hereinafter
7 each and all referred to as "St. John"). This Agreement amends and restates all previous
8 treatment agreements between the parties and including the Joint Interlocal Cooperation
9 Agreement for Sewage Treatment entered into October 25, 2001, effective January 1, 2001.

11 WHEREAS, the Town of St. John does not have adequate means of disposing of its
12 wastewater, liquid wastes and sewage collected in St. John; and

17 WHEREAS, St. John is a municipal corporation and a special taxing district which
18 renders sewage collection and disposal service within certain areas in the Town of St. John, Lake
19 County, Indiana, and surrounding areas, and desires to contract with Schererville to treat
20 wastewater, liquid wastes and sewage collected by St. John; and

1

wastewater, liquid wastes and sewage generated within the jurisdiction of St. John and its contractual customers, all located within the area allocated to St. John, as identified by NIRPC through §§ 201 and 208 of the Clean Water Act, to the Schererville plant to be treated by Schererville.

NOW, THEREFORE, it is hereby agreed by and between the parties hereto that Schererville will accept from St. John the wastewater, liquid wastes and sewage of St. John and its contractual customers and will treat and dispose of the same in a proper manner at its sewage treatment plant, subject to the following covenants and conditions:

1. DEFINITIONS

1(A) "Administrator" shall mean the presiding Officer of the Schererville Sanitary District and Town Council, or the presiding Officer of the St. John Sanitary District and Town Council.

1(B) "Biochemical Oxygen Demand (BOD₅)" of sewage, sewage effluent, polluted waters or industrial wastes shall mean the quantity of dissolved oxygen in milligrams per liter required during stabilization of the decomposable organic matter by aerobic biochemical action under standard laboratory procedures for five (5) days at 20 degrees Centigrade. Laboratory determinations of BOD₅ shall be made in accordance with procedures set forth in "Standard Method".

1(C) "Capacity" Shall mean the percentage of total plant capacity currently allocated thirty percent (30%) to St. John and seventy percent (70%) to Schererville, which shall remain constant and not subject to change unless the ratio of capacity allocated shall change by virtue of additional capacity being added to the WWTP. The parties agree that the plant has an actual current design treatment capacity of 8.75 MGD design average flow.

1(D) "Collection System" shall mean the system of local sewers, including transmission facilities, necessary to accept effluent from individual residences, businesses, industries, and other users, throughout Schererville or St. John. The collection system of St. John shall terminate at the point of discharge from St. John's flow monitoring station located at Schererville's WWTP. The collection system of

Schererville shall terminate at the influent wet well immediately upstream of the sewage treatment plant lift station.

1(E) "Computation of Time" In computing any period of time prescribed or allowed by this agreement, the day of the act or event from which the designated period of time begins to run shall not be included. The last day of the period so computed is to be included unless it is:

(1) a Saturday

(2) a Sunday

(3) a legal holiday as defined by state statute, or

(4) a day the clerk/treasurer's office, in which the act is to be done, is closed during regular business hours

In any event, the period runs until 4:00 p.m. on the next day that is not a Saturday, a Sunday, a legal holiday, or a day on which the office is closed. "Days" are deemed to be calendar days unless specifically stated otherwise. "Working days" or "business days" are Monday through Friday, excluding holidays.

1(F) "Daily Annualized Flow" shall mean the daily average flow of St. John and Schererville, individually and collectively, for the current month and immediately preceding eleven months, as documented by the monthly billing report submitted by Schererville to St. John and the monthly report submitted to IDEM by Schererville respectively. These flows are three in number: first, the flow of St. John; second, the total flow of the Schererville WWTP; and third, the flow of Schererville which shall be calculated by subtracting St. John's flow from the total WWTP flow, or, in the alternative by actual measured flows using such meters as may be installed by Schererville.

1(G) "Director" shall mean the Director of Public Works for the Town of St. John and/or the St. John Sanitary District, his designee or successor.

1(H) "EPA" shall mean the United States Environmental Protection Agency.

1(I) "Excess Loadings" shall mean those components of the daily flow which exceed 250 mg/l of total suspended solids (TSS) or 250 mg/l biodegradable oxygen demand

(BOD₅). Excess loadings shall be flow related and shall be calculated based upon total daily flow irrespective of capacity.

1(J) "Flow" shall mean the gallons of liquid effluent transmitted or received. Flow shall include the normal domestic loadings of BOD₅ (250 mg/l), Suspended Solids (250 mg/l), and such other normal pollutants as may be acceptable as identified and regulated by any NPDES permit applicable to the Schererville WWTP.

1(K) "IDEM" shall mean the Indiana Department of Environmental Management, its predecessor the Indiana Stream Pollution Control Board, or any successor agency.

1(L) "Major or Capital Replacement" means:

1(L)(1) the replacement, modification or addition of a significant component of the WWTP with a total cost of Twenty Five Thousand Dollars (\$25,000) or more, but less than Two Hundred Fifty Thousand Dollars (\$250,000), inclusive of equipment, materials and contracted labor, and specifically excluding routine, ordinary maintenance. Expenditures between Twenty Five Thousand Dollars (\$25,000) and Two Hundred Fifty Thousand Dollars (\$250,000) shall be funded as provided in ¶9(B)(1)(b) et seq.

1(L)(2) the replacement, modification or addition of a significant component of the WWTP with a total cost equal to or in excess of Two Hundred Fifty Thousand Dollars (\$250,000), inclusive of equipment, materials and contracted labor, and specifically excluding routine, ordinary maintenance. Expenditures of Two Hundred Fifty Thousand Dollars (\$250,000) or more shall be discussed and shared pro-rata based upon capacity allocation as agreed between the parties.

1(M) "Minor Replacement" means routine expenditures, less than Twenty Five Thousand Dollars (\$25,000), for obtaining and installing equipment, accessories or appurtenances which are necessary during the service life of the treatment works to maintain the capacity and performance for which such works were designed and constructed and shall be included in charges for operation and maintenance.

1(N) "NIRPC" shall mean the Northwest Indiana Regional Plan Commission.

1(O) "NPDES" means a permit issued to the Town of Schererville by the U.S. Environmental Protection Agency (EPA) and/or the Indiana Department of

Environmental Management (IDEM) or their successor agency, under the Clean Water Act 33 USC 151 §§1251 et. seq.

1(P) "Operation and Maintenance" means the associated costs of manpower (labor and benefits), minor replacements, energy, materials, chemicals and other direct costs, and indirect costs, all as defined in the rate template, Exhibit "C" to this Agreement, actually expended, or reasonably projected and documented, necessary to produce a wastewater plant discharge, including the disposal of sludge or other by-products, that will meet the requirements of Schererville's NPDES permit and to keep equipment functioning at satisfactory efficiencies.

Included in these expenses can be Payment in Lieu of Taxes, provided however, that an administrative credit, which shall be equal to the allocated expense to St. John for Payment in Lieu of Taxes, shall be credited against such administrative expenses.

1(Q) "Rate Template" shall mean the accounting schedule and formulas attached hereto and identified as Exhibit "C", as amended.

1(R) "St. John" shall mean the Town of St. John, a municipal corporation, and the St. John Sanitary District, a special taxing district, or any successor board or agency, and shall include for purposes of definition, flows collected from its contractual customers.

1(S) "Schererville" shall mean the Town of Schererville, a municipal corporation, and the Schererville Sewage Works Utility, or any successor board or agency.

1(T) "Standard Methods" shall mean the most current edition of Standard Methods for the Examination of Water and Wastewater published by the American Public Health Association, as it may, from time to time, be amended, or as otherwise promulgated by IDEM.

1(U) "Superintendent" shall mean the superintendent of the waste water treatment plant owned and currently operated by the Town of Schererville, or any successor entity.

1(V) "Suspended Solids" shall mean solids which either float on the surface of or are in suspension in water, sewage or other liquid and which are removable by laboratory filtration, as defined or called for by Standard Methods. Their concentration shall be

expressed in milligrams per litre. Quantitative determinations of Suspended Solids shall be made in accordance with procedures set forth in "Standard Methods".

1(W) "Transmission Facilities" shall mean large diameter transmission lines, force mains, lift stations, and metering stations necessary for the transportation of sewage to the wastewater treatment plant.

1(X) "Wastewater Treatment Plant" or "WWTP" shall mean the wastewater treatment plant owned and currently operated by Schererville and located at Schererville, Indiana.

2. EFFECTIVE DATE

It is understood and agreed between the parties that this Agreement originally became effective January 1, 2001, and immediately after its execution and approval by the Town Council and Utility Board of the Town of Schererville, the Board of Sanitary Commissioners of the St. John Sanitary District, and the Town Council of the Town of St. John, and in compliance with the provisions of the Interlocal Cooperation Act, I.C. 1971, 36-1-7-1, et seq. This First Amendment and Restatement of the January 1, 2001 Joint Interlocal Agreement for Sewage Treatment by and between Schererville and St. John shall become effective _____, 2016, and immediately after approval and executive by the responsible jurisdictional bodies of each of Schererville and St. John, as originally approved.

3. TERM OF AGREEMENT

3(A) St. John shall have the right, for as long as Schererville operates its sewage works, to use Schererville's WWTP to the extent of agreed capacities set forth in this agreement and in the schedules attached hereto and made a part hereof, for the treatment of its sewage or until this Agreement is terminated as provided in ¶3(B) hereafter.

3(B) In the event St. John constructs its own sewage treatment plant, or becomes connected to another system for a portion of, or all of its treatment, St. John may, at its sole option, terminate this Agreement upon giving Schererville thirty (30) days written notice of its intention to do so, and specifying the effective date of the termination. On or before the effective date of such termination St. John, shall disconnect all of its sewers from Schererville's WWTP. All monies due Schererville under the terms of this

Agreement, including any capital charges and debt service payments shall be due and payable to Schererville within thirty (30) days from the effective date of termination.

4. COMPLIANCE WITH APPLICABLE LAWS

4(A) St. John has adopted, and will maintain and enforce, the following in such a manner as to at all times comply with the "Federal Water Pollution Control Act Amendments of 1972" (Public Law 92-500) particularly Title II, Section 204(b), as amended, and the federal regulations as contained in the Federal Register Volume 39, No. 29, dated February 11, 1974, and any further or supplementary laws and amendments thereto, in order to permit Schererville, on a continuing basis, to receive grants from the United States EPA and the State of Indiana which may, in the future, offer grants incidental to the collection and treatment of sewage and provide Schererville with a treatment facility which meets NPDES permit limitations and with sufficient total capacity to meet the capacity reserved to Schererville under this agreement:

4(A)(1) A system of charges to assure that each recipient of waste treatment services within its jurisdiction will pay its proportionate share of the costs of operation and maintenance of the sewer system (user charge system).

4(A)(2) An ordinance prohibiting the discharge of any sewage or polluted water prohibited by Schererville's Ordinance No. 1862 as amended, and ensuring that new sewers and connections to the sewer system are properly designed and constructed (sewer use ordinance).

4(A)(3) St. John has adopted an industrial cost recovery ordinance, as may be amended from time to time thereafter, which shall conform at a minimum with the Schererville pre-treatment ordinance, the same being Ordinance No. 1862 as amended.

4(B) Schererville has adopted, and will maintain and enforce, the following in such a manner as to at all times comply with the "Federal Water Pollution Control Act Amendments of 1972" (Public Law 92-500) particularly Title II, Section 204(b), as amended, and the federal regulations as contained in the Federal Register Volume 39, No. 29, dated February 11, 1974, and any further or supplementary laws and amendments thereto, in order to permit St. John, on a continuing basis, to receive grants from the

United States EPA and the State of Indiana which may, in the future, offer grants incidental to the collection and treatment of sewage and provide St. John with a treatment facility which meets NPDES permit limitations and with sufficient total capacity to meet the capacity reserved to St. John under this agreement:

4(B)(1) A system of charges to assure that each recipient of waste treatment services within its jurisdiction will pay its proportionate share of the costs of operation and maintenance of the sewer system (user charge system).

4(B)(2) An ordinance prohibiting the discharge of any sewage or polluted water prohibited by Schererville's Ordinance No. 1862 as amended, and ensuring that new sewers and connections to the sewer system are properly designed and constructed (sewer use ordinance).

4(B)(3) A pretreatment ordinance the same being Ordinance No. 1862 as amended, which ordinance establishes general pretreatment requirements to conform with the provisions of CFR Part 403 and applies to all industrial users within the Schererville collection system.

4(C) In the construction, maintenance and operation of their respective sewage systems, St. John and Schererville will comply with all applicable federal and state laws.

4(D) Schererville shall enforce its user charge and sewer use ordinances as to all of its users and customers beginning at the point of discharge from St. John into Schererville's sewage system (metering facility), downstream to the Schererville treatment plant and upstream from the Schererville WWTP throughout the Schererville Collection System.

4(E) St. John shall enforce its user charge and sewer use ordinances as to all of its users and customers beginning at the point of discharge from St. John into Schererville's sewage system (metering facility) and upstream throughout the St. John Collection System.

5. INTERCONNECTION

5(A) Schererville agrees to accept for treatment in its WWTP, wastewater, liquid wastes and sewage delivered by St. John at the metering and sampling vault located on

the west side of the WWTP facility, adjacent to the Schererville WWTP as shown on Exhibit "A" attached hereto and made a part hereof.

5(B) The engineering plans and specifications for any modifications to the existing connection or additional connections, modifications or replacement of measuring devices, sampling devices, or appurtenances connecting to Schererville's system shall be submitted to Schererville at least one (1) month before the same are submitted for approval, if necessary, to IDEM in order to allow Schererville to review and make written comments to St. John and IDEM with respect to said submissions. If Schererville and St. John jointly determine that submission to IDEM is not required, approval by Schererville shall authorize St. John to proceed with the additional connection, modification or replacement.

5(C) It is expressly understood and agreed between the parties that all costs of any connection by St. John, including the planning, inspection and construction of any transmission facility, including metering stations, from St. John to said connection point, or any other connection point, shall be borne exclusively by St. John.

6. CAPACITY AND LOADING ALLOCATIONS

6(A) Sewage received by Schererville from St. John shall meet all criteria of Schererville's NPDES permit as to acceptable materials, acceptable volume and loadings, unacceptable materials and such other criteria as may now or in the future be equitably applied throughout the region served by Schererville in meeting requirements of the State of Indiana or the federal government.

6(B) Upon discovery that unacceptable substances or materials as defined by the Sewer Use Ordinance No. 1862 or waste or materials deemed unacceptable pursuant to the rules and regulations duly promulgated by the United States EPA or IDEM, are being discharged by St. John to Schererville, St. John shall be notified and St. John shall forthwith take appropriate steps to ensure that such unacceptable materials are excluded from future discharge to Schererville. In the event of failure of St. John to take such steps then St. John shall be liable for any additional costs at the wastewater treatment plant in connection with such unacceptable materials, including any fines as may be levied by the State of Indiana or United States EPA for non-compliance with Schererville's NPDES

253 permit. Upon discovery that any unacceptable substances or materials are being
254 discharged as set forth above:

255 6(B)(1) Schererville shall immediately notify St. John of such unacceptable
256 sewage or materials, including the location, time or times, the nature of such
257 unacceptable sewage or waste, and such other information as may be available.

258 6(B)(2) Upon verbal notification and confirmation thereof in writing, and St.
259 John's ability to identify the user responsible for the delivery of such unacceptable
260 wastewater, liquid wastes and sewage, St. John shall notify that user to immediately cease
261 delivery of such materials and/or waste, within twenty-four (24) hours. In the event the user
262 fails to immediately cease delivery of such materials and/or waste St. John shall take such
263 steps as it deems necessary to cause that unacceptable discharge to cease, including but not
264 limited to termination of service, injunction, or other extraordinary remedies to cure such
265 violation.

266 6(B)(3) Schererville shall, in the event St. John is unable to identify the location, time
267 and/or source of such unacceptable sewage, cooperate with St. John in locating such source.
268 St. John will use its best efforts to correct or cut off the user delivering unacceptable
269 wastewater, liquid wastes and sewage to the parties' sewer line.

270 6(B)(4) In the event that the user delivering such unacceptable sewage or materials
271 through the St. John interconnection point or points, to the Schererville WWTP cannot be
272 ascertained after diligent inquiry by St. John and Schererville, St. John and Schererville shall
273 jointly give notice as soon as practical to IDEM and request that an emergency investigation
274 be instigated forthwith in regard to the matter. Said emergency investigation shall determine
275 the severity of the damage, if any, to Schererville's collection and treatment facilities
276 resulting from the discharge of such unacceptable sewage or materials. After such
277 emergency investigation, and upon identification of any violator, IDEM may issue an
278 order mandating St. John to cease delivering such unacceptable sewage.

279 6(B)(5) In the event St. John does not comply with said order, Schererville shall
280 have the right to cease receiving sewage from St. John at the violating interconnection
281 point and may disconnect, at St. John's expense, or take other appropriate action
282 consistent with an order of IDEM, until the cause for such action is remedied to the

satisfaction of Schererville, the United States EPA and IDEM, provided however, that the right to cease servicing the entire system of St. John, shall be only for the delivery of unacceptable sewage or waste materials from the collection system as a whole, as provided herein.

6(C) St. John shall pay its fair share of the annual cash operation and maintenance costs, as defined in ¶1(P) and, minor replacement costs as defined in ¶1(M) for treatment of such sewage, according to its use of Schererville's facilities and the template set out hereafter in Exhibit "C" and made part of this agreement.

6(D) Schererville shall accept, transport and treat all sanitary effluent, as set forth in Paragraph 6(E) below, collected by St. John and delivered to Schererville, including reasonable inflow and infiltration in connection therewith, together with industrial flow and loadings, all in the same manner as such effluent is acceptable throughout the total region served by Schererville.

6(E) In recognition of the capital costs paid by St. John and agreed to between the parties, it is further agreed that St. John shall have the right to the use of the Schererville WWTP equal to a daily annualized flow of thirty percent (30%) of 8.75 MGD. It is understood between the parties that St. John currently has one point of connection to Schererville's WWTP. At the connection point depicted on Exhibit "A", St. John shall have the right to discharge a design peak hourly flow in accordance with the chart and formulas attached as Exhibit "B" and identified as "Ratio of Peak Hourly Flow to Design Average Flow" taken from Fair, G.M. and Geyer, J.C., "Water Supply and Waste-Water Disposal", 1st Edition, 1954.

7. ACCEPTANCE AND TREATMENT OF SEWAGE

7(A) Delivery and Transportation. St. John shall be solely responsible for delivery of the wastewater, liquid wastes and sewage in a form suitable for passage through the Schererville sewer line system to the metering point and/or to the connection point or points. Said wastewater, liquid wastes and sewage shall be delivered from the St. John sanitary system to the connection point depicted on Exhibit "A". Schererville shall be solely responsible for transporting the wastewater, liquid wastes and sewage from the connecting point to its WWTP.

313 7(B) Treatment. Schererville shall be solely responsible for the proper treatment and
314 transportation of the wastewater, liquid wastes and sewage received from St. John in
315 accordance with the requirements and standards of IDEM, the Indiana State Board of
316 Health, the United States EPA, and the terms and conditions of the NPDES permit held
317 by Schererville.

318 7(C) Acceptable Sewage. St. John has adopted a sewer use ordinance and user charge
319 ordinance, as may be amended from time to time thereafter, which shall comply at a
320 minimum with the sewer use ordinance of the Town of Schererville and as applicable to
321 all users of the system and specifically all applicable rules and regulations of the United
322 States EPA. Schererville shall be under no obligation whatsoever to accept any type of
323 waste or toxic materials, which are a prohibited discharge under the rules of the United
324 States EPA or IDEM. Schererville has no obligation to accept radioactive material. It is
325 recognized by St. John that the sewer use ordinance of Schererville, the same being
326 Ordinance No. 1862, and pre-treatment ordinance may be amended from time to time so
327 as to change the types of waste which must be accepted by Schererville, however, this
328 shall not constitute a waiver of St. John's right to testify or oppose passage of said
329 ordinances and amendments.

330 8. METERING AND SAMPLING DEVICES

331 8(A) St. John has installed and will maintain the required metering and sampling
332 devices located at the connection point for the purpose of measuring the volume and
333 strength of wastewater, liquid wastes and sewage delivered by St. John to the connection
334 point for conveyance and treatment and to provide a sampling and monitoring capability.
335 Said metering and sampling devices have been constructed in a manner and in a place
336 accessible to Schererville. Any such device shall be subject to the inspection, testing and
337 approval of Schererville at all reasonable times during normal business hours. For said
338 purposes, and the purposes of reading and recording data from said meters, each party
339 shall, at all times, have complete and free access to said metering point and sampling
340 devices.

341 8(B) The cost of planning, designing, building and installing any additional metering
342 and sampling devices for an additional connection point which may be required for St.

John, including acquisition of real estate, shall be borne exclusively by St. John. In addition, St. John shall assume complete responsibility, including costs, for the installation, maintenance and repair of all of its metering devices and will further defray any costs incurred by reason of testing of the metering devices as requests may be made by Schererville, from time to time, provided such requests are reasonable as to frequency and nature of tests required.

8(C) St. John agrees to provide, install and maintain at its own cost and expense, at the metering vault located at the connection point, an automatic flow measuring and recording device with an integrator-totalizer, for the purpose of recording the volume of flow discharged into Schererville's system. Readings from such volumetric device shall be read daily within forty-five (45) minutes of the start of the operating day by St. John and/or Schererville. Schererville shall have the sole discretion of determining the operating day, and may, from time to time, change that determination, provided however that such changes shall not be made more frequently than semi-annually; and that not less than seven (7) days' notice of such change shall be given to St. John.

8(D) A flow-weighted, composite 24-hour sampler has been installed at the St. John metering vault and shall be utilized at a minimum of monthly intervals by St. John, and tested by Schererville, or such other laboratory as St. John and Schererville may, from time to time, approve. Parameters to be tested shall include pH, Suspended Solids, COD, BOD, phosphorus, metal ions, total nitrogen or other testing as required to satisfy the Schererville NPDES permit limitations, or IDEM and United States EPA regulations. In addition, St. John shall test at least annually for "priority pollutants" or other exotic substances as defined by the United States EPA or IDEM when such agency requires the Town of Schererville to report same.

8(E) Flow-weighted, composite 24-hour sampling will be conducted at the Schererville WWTP wet well, at a minimum of monthly intervals by Schererville, and tested by Schererville, or such other laboratory as St. John and Schererville may, from time to time, approve. Parameters to be tested shall include pH, Suspended Solids, COD, BOD, phosphorus, metal ions, total nitrogen or other testing as required to satisfy the Schererville NPDES permit limitations, or IDEM and United States EPA regulations. In

373 addition, Schererville shall test at least annually for "priority pollutants" or other exotic
374 substances as defined by the United States EPA or IDEM or when such agency requires the
375 Town of Schererville to report same.

376 8(F) Sampling shall be carried out by customarily accepted methods. BOD₅, Suspended
377 Solids, Phosphorus, Ammonia Nitrogen, Oil and Grease tests shall be done at least monthly,
378 for a period of seven (7) days, with 24-hour flow-weighted, composite samples each day,
379 consisting of a minimum of twelve (12) aliquots composited according to flows taken at
380 flow-weighted intervals. Material samples, as received from the sampling devices, shall be
381 available to both contracting parties. The results of tests on samples shall be provided to
382 Schererville and St. John.

383 8(G) The records and reports from such measuring and sampling devices will be kept by
384 Schererville and made available to St. John monthly for billing and analysis purposes.

385 8(H) Schererville may inspect such metering and sampling devices at any reasonable time
386 and in the event such a device fails or malfunctions and is not repaired within a reasonable
387 time by St. John, then Schererville may repair the same and St. John will pay Schererville all
388 costs and expenses for said repair. If Schererville has reason to believe such metering and
389 sampling devices are not properly maintained, Schererville shall give St. John notice of
390 same. If within five (5) working days, St. John has not performed maintenance as
391 notified, Schererville may perform such maintenance and St. John shall pay all costs and
392 expenses for such maintenance.

393 8(I) St. John may inspect Schererville's metering and sampling devices at any
394 reasonable time and in the event such a device fails or malfunctions, and is not repaired
395 within a reasonable time by Schererville, St. John may give Schererville notice of the
396 failure to correct. If, within 5 working days, Schererville has not performed appropriate
397 maintenance and repair as it deems appropriate and necessary to restore accuracy
398 function to the device, then St. John may invoke the Step II or Step III dispute resolution
399 process. In the event the Arbitrators rule in favor of St. John, they may, as part of their
400 award, enter an appropriate damage award, or assess a surcharge against Schererville for
401 violation of this ¶8(I).

8(J) In the event of failure of St. John's metering or sampling devices, and during any period of repair, for the purposes of determining rates pursuant to this Agreement, it will be assumed that during the period of in-operation of the metering or sampling device, the flow and strength was at the average daily volume of the preceding twelve (12) calendar months and that loadings for BOD₅ and Suspended Solids were at the average daily weight of the preceding twelve (12) calendar months unless other reliable and verifiable data is available.

8(K) Upon receipt of supporting documentation St. John shall reimburse Schererville to defray the cost of verifying, not more than twice per year, the devices metering the volume and strength of flow from St. John to Schererville. Both parties shall have access to the respective metering and sampling equipment of St. John or Schererville for purposes of verifying flow and collecting samples for verification of loadings. Notice of such sampling shall be given to St. John or Schererville and each party will be given adequate portions of any samples obtained for purposes of measuring and monitoring the strength of sewage being received by Schererville from St. John or from Schererville.

8(L) St. John shall calibrate its metering equipment on a semi-annual basis. Five (5) working days' notice of such calibration shall

be provided to Schererville and the results of such calibration shall be delivered to Schererville within five (5) working days of calibration.

8(M) Schererville shall calibrate its metering equipment on a semi-annual basis. Five (5) working days' notice of such calibration shall be provided to St. John and the results of such calibration shall be delivered to St. John within five (5) working days of calibration.

8(N) In the event of a dispute over the results of sampling, independent samples shall be taken and submitted to Microbac Laboratories of Merrillville, Indiana for an independent test. The results of the independent test shall be final and in the event that such tests substantially corroborate the results of the Schererville test, St. John shall bear exclusively the cost of such additional testing. In the event that the independent tests do not substantially corroborate the questioned test results, Schererville shall bear exclusively the costs of the additional testing.

432 9. COST OF TREATMENT

433 9(A) Operation and Maintenance Costs. St. John shall pay to Schererville for operation
434 and maintenance costs, as defined in ¶1(P) an amount as determined by the template
435 identified as Exhibit "C" hereto, "Template for Calculation of Operation and Maintenance
436 Costs". The operation and maintenance cost rate shall be reviewed every five (5) year
437 period, or as determined needed by either Schererville or St. John upon written request
438 thereafter, with the first period beginning January 1, 2016, and to be adjusted for said
439 proceeding five (5) year period, by May 31, beginning June 1, 2021, according to actual
440 expenditures for the preceding five-year period in each category under conditions and
441 circumstances existing at the time of any such adjustment, and any pro-forma items
442 identified in Exhibit "C" attached hereto and referenced throughout herein.

443 Notice of the proposed rate and supporting documentation shall be sent to St. John
444 not later than April 1 of each five-year period. Any delay in notice shall extend the
445 effective date by a corresponding number of days.

446 9(B) Capital Costs.

447 9(B)(1)(a) In recognition of the past local cost incurred by Schererville in the
448 expansion of its sewage treatment plant, as well as its costs for payment of purchase of
449 additional capacity and allocation, St. John has paid to Schererville sums sufficient to
450 increase its capacity to seventy percent (70%) of 8.75 MGD.

451 9(B)(1)(b) In recognition of major or capital replacement costs, as defined in
452 ¶1(L)(1), which may be incurred by Schererville, St. John agrees to pay monthly to
453 Schererville the sum of Ten Cents (\$.10) per 1,000 gallons of flow. Said sum shall be
454 escrowed by the Town of Schererville in an account reserved solely to the Town of St.
455 John and to be used by the Town of Schererville to defray, pro-rata,¹ based upon
456 capacity, the cost of major capital replacements, modifications, or additions provided

¹ The percentage of capacity, thirty percent (30%) St. John and seventy percent (70%) Schererville, shall remain constant and not subject to change unless the ratio of capacity allocated shall change by virtue of additional capacity being added to the WWTP, or sale transfer of capacity percentage amounts between St. John and Schererville.

however that such funds shall not be used to provide additional capacity without the express written consent of St. John.

9(B)(1)(c) Sums in the escrow account shall accumulate until the aggregate of the capital replacement reserve, including interest, shall total Fifty Thousand Dollars (\$50,000), at which time such monthly payments shall cease. In the event such fund shall be depleted to Twenty Five Thousand Dollars (\$25,000), then such monthly capital replacement charge shall be reinstituted. Such funds shall be escrowed by Schererville in a separate account, in the joint names of Schererville and St. John and shall be invested in instruments authorized by law governing the investment of public funds, the same being IC 1971, 5-13-9-1 et. seq., and may be withdrawn upon the joint signatures of the St. John Clerk/Treasurer on behalf of St. John and the Schererville Clerk/Treasurer on behalf of Schererville. It is understood that as of the date of this Agreement the sum of \$50,000.00 is currently in the escrow account.

9(B)(2) Local major or capital replacement costs (total costs less grant funds received, if any) necessary for future improvements to bring the facility into compliance with NPDES permit limitations, state or federal regulation, or to better accomplish its function, so long as such "betterment" is cost effective, shall be shared by St. John and Schererville on the basis of capacity reserved to each community.

9(B)(3) Prior to the expenditure of any funds from the St. John capital reserve account, identified in ¶9(B)(1)(b) above, Schererville shall provide notice to St. John, who shall, within forty-five days of such notice, consent or object to its pro-rata expenditure of such capital expense. In the event St. John objects to said expenditure, the parties shall proceed to a Step II dispute resolution process. If St. John fails to object within forty-five (45) days of such notice, such expenditure shall be deemed approved.

Upon the declaration of an emergency, as defined by IC 1985, 36-1-2-4.5, Schererville shall provide accelerated notice to St. John, who shall, within ten days of such notice, consent or object to its pro-rata expenditure of such capital expense. In the event St. John objects to said expenditure, the parties shall proceed to a Step II dispute resolution process. If St. John fails to object within ten (10) days of such notice, such

expenditure shall be deemed approved. Upon the declaration of an emergency, Schererville shall proceed under the provisions of IC 1971, 36-1-12-9.

9(B)(4) Both parties understand and agree that the payments by St. John, called for by Paragraphs 9(A) and 9(B) of this Agreement are intended to compensate and reimburse Schererville for services rendered in the treatment and disposal of wastewater, liquid wastes and sewage from St. John and capital costs expended in the construction of the wastewater treatment plant with a current Design Average Flow of 8.75 MGD.² Such payments shall not entitle St. John to any possessory or proprietary rights in the WWTP of Schererville. Schererville reserves the right to operate and maintain such facility and shall have sole discretion as to the methods of operation and the necessity for the nature and extent of improvements thereto.

9(B)(5) Nothing in this agreement shall prevent Schererville from expanding its WWTP or incurring other capital costs at its WWTP without financial participation by St. John. St. John shall not be obligated to pay any costs attributable to such expansion or capital costs, either in a lump sum, or as an additional charge for rates and services, unless it participates in such expansion.

9(C) Surcharges.

9(C)(1) It is agreed that at the commencement of this Agreement, thirty percent (30%) of Schererville's actual primary sewage treatment capacity of 8.75 MGD is allocated to St. John and seventy percent (70%) is allocated to Schererville. (Allocated Capacities) To utilize these percentages of such capacity, St. John is entitled to transport up to, but no greater than thirty percent (30%) of 8.75 MGD, calculated as a daily annualized flow, of wastewater, liquid wastes and sewage to Schererville.

9(C)(2) In the event that St. John shall transport wastewater, liquid wastes and sewage to the Schererville plant in excess of its allocated capacity of thirty percent (30%) of 8.75 MGD, excluding peak flows, and thereby uses in excess of its thirty percent (30%) of capacity before such plant is increased in capacity, and in the event the Schererville plant has capacity sufficient to accept such increased amount of sewage, then

² The permitted capacity for the WWTP is 8.75 MGD pursuant to the current NPDES for the POTW.

St. John agrees to pay to Schererville a surcharge appropriate to the additional plant capacity used by St. John on account of this increased amount of sewage. Such surcharge is hereby determined to be twenty-five cents (\$0.25) per 1,000 gallons of flow in excess of allocated capacity. The payment of a surcharge is due upon the first monthly occurrence, and each subsequent monthly occurrence by St. John into Schererville's allocated capacity based upon daily annualized flow, as billed monthly.

9(C)(3) In the event Schererville shall transport wastewater, liquid wastes and sewage to the Schererville plant in excess of Six Million One Hundred and Twenty Five Thousand gallons per day (6.125 MGD), excluding peaking flows, and thereby use in excess of its Seventy percent (70%) of capacity before such plant is increased in capacity, and in the event the Schererville plant has capacity sufficient to accept such increased amount of sewage, then Schererville agrees to credit to St. John a surcharge appropriate to the additional plant capacity used by Schererville on account of this increased amount of sewage. Such surcharge is hereby determined to be twenty-five cents (\$0.25) per 1,000 gallons of flow in excess of allocated capacity. The credit for a surcharge is due upon the first monthly occurrence, and each subsequent monthly occurrence by Schererville into St. John's allocated capacity based upon daily annualized flow, as reported monthly.

9(C)(4) The payment of a surcharge by either party under ¶¶9(C) (2) or (3) above, shall not operate to allocate additional capacity to either party without express written consent. The payment of, or credit for surcharges, for exceeding allocated capacity shall be paid or credited monthly irrespective of whether or not plant expansion has been initiated. The payment of, or credit for surcharges is understood to be a short term solution to the need for additional plant capacity.

9(D) Plant Expansion.

9(D)(1) No less than twelve (12) months prior to the date projections indicate that St. John and/or Schererville might transport to the Schererville WWTP for treatment, wastewater, liquid wastes and sewage in excess of ninety percent (90%) of its allocated capacity, calculated as a daily annualized flow, and in any event prior to St. John or Schererville transporting a maximum annual flow in excess of its allocated capacity, St. John and Schererville shall reach an agreement as to additional plant capacity.

9(D)(2) In the event that St. John and/or Schererville reaches ninety percent (90%) of its allocated capacity, the agreement referred to in paragraph 9(B)(5) above shall be based upon one of the following three options:

9(D)(2)(a) In the event Schererville elects to expand its current facility beyond 8.75 MGD, Schererville shall offer the Town of St. John the opportunity to participate in such additional expansion, provided however, that St. John shall bear its pro-rata costs for capital charges and administrative expenses of such expansion, if St. John elects to participate in such expansion. St. John shall make its election within sixty (60) days of notice of the engineer's cost estimate based upon preliminary design.

9(D)(2)(b) In lieu of ¶9(D)(2)(a) above, or in the event Schererville has not elected to expand its current facility, St. John may elect to build additional capacity, at its sole cost, in such amount as it may deem necessary and Schererville agrees to allow such construction provided however that such construction, shall meet at a minimum any requirements of United States EPA or IDEM together with the approval of any consulting engineers retained by the Town of Schererville, further provided however that such approval shall not be unreasonably withheld and the basis of any such review shall be the quality of construction and treatment as now exists in the Schererville waste water treatment facility.

9(D)(2)(c) In the event that Schererville has elected not to expand its current facility and in the event Schererville has excess capacity available, St. John may, in lieu of 9(D)(2)(a) or 9(D)(2)(b) above, demand, and Schererville will provide to St. John, additional capacity not to exceed thirty percent (30%) of any remaining hydraulic capacity (based upon plant capacity in excess of 8.75 MGD) available at the Schererville waste water treatment plant. In exchange St. John will pay additional capital costs, based upon the cost per gallon of any plant expansion in excess of 8.75 MGD, together with any interest accrued thereon at the time St. John acquires such additional capacity.

9(D)(2)(d) In lieu of ¶¶9(D)(2)(a), (b), or (c) above, St. John and Schererville may reach any other arrangement for the sharing of treatment capacity or construction of additional capacity.

573 9(D)(3) In order to provide advance notice of future WWTP expansion,
574 Schererville shall provide notice to St. John of the issuance of any Request For Proposal
575 (RFP) for design or consulting engineering services for such expansion.

576 9(D)(4) Schererville shall, upon delivery to the United States EPA and/or IDEM of
577 any facilities plan, construction drawings, application fee, construction permits or other
578 documents evidencing such construction, provide St. John with copies of such documents
579 for which Schererville intends to request participation by the Town of St. John. Upon the
580 submission of plans and specifications for such facility to IDEM, copies shall also be
581 provided to St. John.

582 St. John shall be given notice, not less than four (4) weeks in advance, of any
583 meeting in which a proposed bond ordinance or resolution which may affect the
584 treatment rate structure, capital charges or allocated capacities charged to St. John may be
585 placed on an agenda for adoption by Schererville, so as to allow St. John to remonstrate
586 or otherwise voice its opinions concerning such proposal, provided however, that any
587 right of remonstrance shall not be retroactive to events or actions which pre-date January
588 1, 2017.

589 10. BILLING AND PAYMENT

590 The volume and strength of sewage accepted by Schererville into its sewage
591 system for processing from St. John as measured by metering and sampling devices,
592 identified above, shall be determined monthly and Schererville shall bill St. John within
593 thirty (30) days thereafter for the charges applicable under rate schedules then in effect
594 for the previous thirty (30) day metered period, with said bill showing appropriate flow
595 meter readings. Such charges shall commence on the first date sewage is accepted by
596 Schererville into its sewage system from St. John for processing. In the event that St.
597 John should fail to make payment to Schererville of the amount of such invoice within
598 the time so limited, St. John shall be liable for and shall pay to Schererville, as a penalty
599 for delinquency in such payment, the same percentage of such invoice that the sewage
600 rate ordinance and schedule of Schererville imposes upon all other users of Schererville's
601 sewage disposal facilities for similar delinquencies.

603 11. RATE COVENANTS OF ST. JOHN

604 St. John has instituted and will maintain and enforce a system of charges in
605 accordance with Section 204(b)(1), Public Law 92-500, as amended and supplemented
606 and the guidelines and regulations promulgated from time to time by the United States
607 EPA.

608 12. ADJUSTMENT OF COSTS AND PRIOR ADJUSTMENTS

609 This Agreement shall be effective as to the determination of the cost of sewage
610 transportation and treatment for services provided on and after _____. The
611 cost of sewage transportation and treatment together with capital costs for services
612 provided for the years prior to January 1, 2016, are reflected on the schedules attached
613 hereto, made a part hereof and marked as Exhibit (D) Capital costs accruing after January
614 1, 2021, shall be paid pursuant to ¶9(B).

615 13. DISPUTE RESOLUTION

616 The parties agree that an organized and graduated method for resolving disputes,
617 if and when they might arise, is appropriate and in the best interest of the parties. The
618 following process will govern the resolution of all disputes, other than the arithmetic
619 computation of rates and this section regarding dispute resolution procedures. The issue
620 of rate computation is provided for in separate provisions of the Agreement between the
621 parties. This procedure shall, however, govern the establishment of, or proposed revision,
622 in the template or formula for rate calculation, except for the timetable on the
623 establishment of the initial template, which is also governed by other provisions of the
624 Agreement between the parties. The parties hereby agree that if either party believe the
625 effect of this Agreement in any way is inequitable or unfair to its citizens, such party
626 may, by thirty (30) days written notice, request re-negotiation of any part of this
627 Agreement and the other party will in good faith participate in such negotiations. Any
628 proposed amendment to the Agreement, excepting this dispute resolution procedure, shall
629 be included in the topics subject to this dispute resolution process.

630 Nothing in these provisions shall limit or otherwise restrict the parties, by means
631 of their informal meetings and quarterly review meetings, with proceeding in those

forums to anticipate or resolve matters. Either party may, however, remove a matter from those forums to this process, at the Step II level, upon thirty (30) days written notice to the other party.

13(A) For purpose of definition concerning dispute resolution, the following special definitions shall apply:

13(A)(1) "Notice" Notice shall be a written document, identifying or redefining an issue or dispute between the parties, which shall be delivered to the Clerk-Treasurer of either Town by certified mail, return receipt requested. Each Clerk-Treasurer shall, upon receipt of such document, deliver same to the responsible jurisdictional Body of each Town, to the Administrator and Town Manager of each responsible Body, and to the attorney of each responsible Body. Notice shall be deemed effective on the date of receipt by the Clerk-Treasurer.

13(B) Step I - Initial Resolution

13(B)(1) Step I parties are the Town Managers, Directors and the Superintendents. The Directors, Town Managers or the Superintendents may identify an issue and initiate a Step I dispute resolution by delivery of a written notice to the other party.

13(B)(2) Within ten (10) business days of notification, the Directors, Town Managers and Superintendents shall meet to discuss the issue and attempt a mutually acceptable resolution. The Directors, Town Managers and Superintendents may mutually agree to an extension of time in which to meet, continue to meet, or attempt resolution. Authority to extend the time for resolution shall be presumed. Any resolution between the Directors, Town Managers and Superintendents shall not be contrary to this agreement as it may, from time to time be amended.

13(B)(3) Upon resolution of the issue, and within five (5) business days of resolution, the Directors, Town Managers and the Superintendents shall notify the Administrators. The Administrators shall have ten (10) business days, after notice, to review the resolution for consistency with this agreement.

13(B)(4) Unless the Administrators, within ten (10) business days after notice, determine in writing, with notice to the other party, that the resolution is inconsistent with

661 this agreement or requires approval by their respective boards, the resolution shall be
662 accepted for implementation. Each party to this agreement may assume that the
663 Administrators have the authority of their respective governing boards to review and
664 accept the proposed resolution.

665 13(B)(5) If the Directors, Town Managers and Superintendents are unable to
666 resolve the issue, an impasse may be declared. An impasse shall be declared in writing
667 and delivered to the Clerk-Treasurer by certified mail, return receipt requested, with a
668 copy mailed to the Administrators of each Town.

669 13(B)(6) At any time, and for any reason, the Administrators may direct that any
670 issue be addressed by a Step II proceeding, in which event such instructions shall be
671 delivered to the Directors, Town Managers and Superintendents in writing as the
672 Administrators may determine.

673 13 (C) Step II - Intermediate Review

674 13(C)(1) If the parties identified in Step I are unable to resolve the issue; or if the
675 administrators over-ride or object to any resolution agreed to by the Directors, Town
676 Managers, and Superintendents; or if the Administrators elect to address any issue as
677 provided by ¶13(B) (6) then the dispute escalates to Step II.

678 13(C)(2) Step II parties are the President and Town or Utility Attorney of the St.
679 John Sanitary District and the President and Town or Utility Attorney of the Schererville
680 Municipal Sewer Utility. In the event any of the parties are unavailable, then the
681 President of the respective party may name a replacement, so long as the replacement is
682 either an elected or appointed official of St. John or Schererville, and that official has
683 sufficient knowledge and experience with both this Agreement and operations of the
684 respective sewage utilities of the parties to adequately represent the interests of that party.

685 13(C)(3) Upon receipt of a Step I impasse, receipt of notice of the Administrator's
686 assumption of jurisdiction, or the receipt of rejection, by either party, of a Step I
687 resolution, either party may identify or redefine an issue and initiate a Step II dispute
688 resolution by delivery of a notice. When an issue arises the Administrators will notify
689 their respective Boards, together with the attorneys for the respective Boards.

13(C)(4) Within ten (10) business days of notice, the Administrators and their respective counsel shall meet to discuss the issue and attempt a mutually acceptable resolution. The Administrators may mutually agree to an extension of time in which to meet, continue to meet, or attempt resolution. Any resolution between the Administrators shall not be contrary to this agreement as it may, from time to time, be amended.

13(C)(5) Within five (5) business days following resolution of the issue, the Administrators shall notify their respective Boards. The Boards shall have thirty (30) days thereafter to review the resolution.

13(C)(6) Unless the Boards, within thirty (30) days, determine that the resolution is unacceptable, or requires their approval, the resolution shall be deemed accepted. Each party to this agreement may assume that the Administrators have the authority of their respective governing boards to implement the resolution after the thirty (30) day period.

13(C)(7) If the Administrators are not able to resolve the issue, either one (1) of them may declare an impasse. An impasse shall be declared in writing and delivered to the Clerk-Treasurer by certified mail, return receipt requested with a copy to the responsible jurisdictional Board of each Town.

13(D) Step III - Final Arbitration

13(D)(1) If the parties identified in Step II are unable to resolve the issue; or if the respective boards over-ride or object to any resolution agreed to by the Directors, Town Managers and Superintendents (Step I); or by the Administrators (Step II); or if any Administrator or Board elects to address the issue by binding arbitration, then the dispute escalates to Step III.

13(D)(2) Step III shall be binding arbitration and shall be governed by the provisions of IC 1971, 34-4-2-1 et. seq.

13(D)(3) Upon receipt of a Step II impasse or the receipt of a notice of rejection, by either party, of a Step II resolution, either party may identify or redefine an issue and initiate a Step III dispute resolution by delivery of a notice.

13(D)(4) Within ten (10) business days of notice, the Administrators, or Boards, shall each name an Arbitrator. Such arbitrator shall preferably be an engineer, accountant,

719 or other professional familiar with sewer utilities and their operations, preferably with
720 expertise in the disputed area. The parties, their respective board members, board
721 attorneys, board utility accountants and their agents, servants and/or employees shall not
722 be eligible to serve as arbitrators. The two (2) named arbitrators shall, within thirty (30)
723 days, name a third person to serve, and the three arbitrators shall determine the
724 unresolved issues between the parties. The judgment or findings of a majority of the
725 arbitrators shall be binding upon the parties as a final determination of all issues before
726 the arbitrators.

727 14. LITIGATION

728 St. John agrees and undertakes to hold harmless and indemnify Schererville from
729 any liability damage losses, expenses or costs and from any action, negligence, or failure
730 to act on the part of St. John in operation of its sewage system.

731 Schererville agrees and undertakes to hold harmless and indemnify St. John from
732 any liability damage losses, expenses or costs and from any action, negligence or failure
733 to act on the part of Schererville in operation of its sewage system and treatment facility.

734 The parties agree that this agreement in whole or in part, and in particular the rate
735 template attached as an exhibit hereto and dispute resolution procedures set forth in ¶13
736 preceding, is intended to wholly replace litigation except for purposes of injunctive relief
737 to enforce compliance with the terms of this agreement or any decision by an arbitrator
738 made under the provisions of ¶13 above, and to pay such sums of money as they shall
739 become due hereunder.

740 The provisions of I.C. 1971, 36-9-23-26 and 26.1, as amended are hereby
741 acknowledged and disregarded, it being the intent of this agreement to govern the rate
742 structure between the parties, as hereinabove set forth, by the procedures set forth in this
743 Agreement. To the extent necessary to give full force and effect to the provisions of this
744 ¶14, St. John is hereby deemed to be a special contract customer, not a "user", and this
745 agreement, in addition to other statutory authority, is to be governed by the provisions of
746 the Interlocal Cooperation Act, the same being I.C. 1971, 36-1-7-1 et seq., as amended.

748 15. OPERATIONS

749 15(A) Both parties will at all times use reasonable and diligent care to keep their sewer
750 systems and treatment facilities in good operating condition.

751 15(B) All parts of the sewage works and all records and accounts relating to the matters
752 covered by this Agreement and the applicable sewer ordinances shall be made available
753 for inspection by either party at any reasonable time.

754 15(C) Both parties will cooperate with each other in the enforcement of their sewer
755 related ordinances.

756 15(D) Neither party shall be liable to the other for damages in case of an operational or
757 system failure not due to its negligence or which is caused by an event beyond its control.

758 15(E) In order that continuing cost data may be available as to the annual cash operation
759 expenses of the wastewater treatment plant, transmission facilities, collections systems,
760 etc., Schererville shall maintain such records as may be necessary to accurately reflect the
761 functional costs of the system. Such functional costs categories shall include, but not be
762 limited to the following:

763 15(E)(1) Wastewater treatment plant costs including those specific costs associated
764 with the treatment of BOD₅, Suspended Solids and other pollutants.

765 15(E)(2) General administrative costs of the system.

766 15(E)(3) Costs of capital equipment.

767 15(E)(4) Annual replacement costs of the treatment plant.

768 15(F) The categories identified above shall be documented monthly or annually by
769 Schererville as follows:

770 15(F)(1) Contemporaneously with its submission to London Witte, or any successor
771 utility accountant the monthly claims docket for the sewage utility of Schererville shall
772 be submitted to St. John.

773 15(F)(2) Contemporaneously with its submission to Schererville, the monthly
774 report of operations prepared from the monthly claims docket by London Witte or any
775 successor utility accountant shall be submitted to St. John.

15(F)(3) Contemporaneously with its preparation, the modifications to the monthly budget³ of the sewer utility, as allocated by London Witte, or any successor utility accountant, to various expense categories and reflecting the amount spent to date and the projected amount remaining for the balance of the year shall be submitted to St. John.

15(F)(4) In the event St. John questions the allocation of any claim, Schererville agrees to provide within thirty (30) days of any request, the purchase orders, invoices, or other description or documentation of work or expense to justify its allocation to the WWTP of Schererville. St. John shall have the right, through designated representatives, at any reasonable time, to review the records of Schererville for the purpose of determining compliance with this Agreement and to obtain such information as may be pertinent thereto. In the event of a dispute concerning the propriety of an allocation to the WWTP such dispute shall be resolved beginning with Step II of the dispute resolution procedure.

15(F)(5) Within thirty (30) days of its preparation and contemporaneously with its submission for legal publication as required by law, Schererville shall provide St. John with its annual financial report for its sewer utility.

15(F)(6) Within thirty (30) days after receipt Schererville shall provide St. John with copies of any audit of the Schererville sewer utility as prepared by the Indiana State Board of Accounts.

15(F)(7) Schererville shall supply contemporaneously to St. John, copies of the Monthly Report of Operations and Discharge Monitoring Report as submitted to the United States EPA or IDEM.

15(G) Records shall be maintained disclosing the gross volume of flow and loadings reaching the wastewater treatment plant, together with such other flow factors as in-flow and infiltration amounts (in-flow and infiltration amounts may be assumed) received within Schererville, volume of use of specific lift stations by Schererville versus volume

³ "Budget" shall mean the internal reporting form prepared by the Clerk/Treasurer of the Town of Schererville which allocates expenditures to line item categories in the general format of a municipal budget. It is understood by St. John that the budget is a working document, not an official document, prepared by the Town of Schererville annually at the beginning of each year for the purpose of projecting expenses and income of the sewer utility.

used by St. John and such other data as may be necessary to determine the fair share of costs payable by St. John. St. John shall have the right to request, on an annual basis, the calibration of the volumetric metering equipment of Schererville and the right to be present during such calibration and shall be provided with a copy of any reports issued to Schererville regarding such calibration.

16. COMPLIANCE WITH RULES, REGULATIONS, STANDARDS AND LAWS

The parties to this Agreement shall comply with all state and federal regulations, standards and laws regarding the collection and treatment of sewage and the operation of their respective systems. In the event studies and/or rehabilitations are necessary or required as a condition of Schererville receiving a sewage grant, St. John shall fully cooperate with Schererville to satisfy such requirements.

17. ANNUAL AND QUARTERLY MEETINGS

There may be a quarterly meeting held by the Administrators of the Schererville Sanitary District and the St. John Sanitary District, together with their Town Managers, respective counsel and necessary staff. Such quarterly meetings may be held upon request of either Party. It is contemplated that the topics of discussion shall include the monthly financial reports identified above, monthly reports of operation, major or capital replacements, requests for capital allocation, status of dispute resolution, if any then pending, or other matters of operational or financial concern. It is contemplated that these meetings shall constitute a working group for the purpose of identifying potential conflicts or disputes and resolving same prior to the initiation of a formal dispute resolution process. It is also contemplated that future capacity needs, capital improvements, or plant expansions shall be reviewed and updated so as to keep all parties apprised of concerns with capacity, planning for additional capacity, population growth, infiltration or inflow analysis, or other topics of general and relevant concern.

Schererville and St. John agree that the foregoing meeting terms are essential for the purpose of reviewing matters of interest to all parties and to promote better understanding and a harmonious relationship between the communities in regard to the mutual problems associated with the collection and disposition of sanitary wastes. Discussions at such meetings may include plans of Schererville and St. John as to

additional facilities and the financing thereof, requirements of federal and state agencies and other subject matters to assist in the abatement of pollution in the area. If necessary, the next meeting may be hosted by St. John in January, 2017. All future meetings shall alternate between the two (2) parties' offices. In the event that the parties agree to conduct an annual meeting, the same shall be held during the month of June.

18. NOTICES

Any notices, except notices under ~13 above concerning dispute resolution procedures, required or desired to be given under this Agreement shall be served by certified mail, return receipt requested. Any notice, except notices under ¶13 above, concerning dispute resolution procedures, shall be deemed to have been served upon mailing. At the date of execution of this Agreement, Schererville's official address is 10 E. Joliet Street; St. John's official address is 10955 West 93rd Avenue.

19. BENEFITS

All of the provisions of this Agreement shall inure to the benefit of, and shall be binding upon, the successors and assigns of this Agreement.

20. CHANGES IN REGULATORY AUTHORITY

Reference has been made throughout this Agreement to the Indiana State Board of Health, IDEM, the United States EPA, and to other regulatory agencies, either by name or description. It is understood that any such reference to any regulatory agency shall apply not only to each regulatory agency as presently exists but also to any other agency which may assume the functions of such agency in the future.

21. COMPLETE AGREEMENT

The terms and provisions herein contained constitute the entire Agreement between the parties and shall replace all terms and provisions of all previous Agreements and/or Contracts between the Parties hereto. All terms and provisions of previous Agreement which are not replaced or repealed and not restated herein are ratified and reaffirmed hereby to remain in full force and effect with this current First Amendment and Restatement of Agreement.

SCHERERVILLE PUBLIC ACTION. This AGREEMENT has been approved by affirmative action of the Town Council of the Town of Schererville, Lake County, Indiana, at a Public Meeting of the Town Council, after motion duly made and seconded, on the ____ day of _____, 2016.

IN WITNESS WHEREOF, the Town of Schererville, Lake County, Indiana, acting by and through its duly authorized and elected Town Council, has executed this Agreement this ____ day of _____, 2016.

**TOWN OF SCHERERVILLE, LAKE COUNTY,
INDIANA, TOWN COUNCIL**

MICHAEL A. TROXELL, President

THOMAS J. SCHMITT, Vice-President

ROB GUETZLOFF, Councilmember

KEVIN CONNELLY, Councilmember

JERRY TIPPY, Councilmember

ATTEST:

JANICE M. MALINOWSKI, IAMC, MMC
Clerk Treasurer

SCHERERVILLE PUBLIC ACTION. This AGREEMENT has been approved by affirmative action of the Utility Board of the Town of Schererville, Lake County, Indiana, at a Public Meeting of the Utility Board, after motion duly made and seconded, on the ____ day of _____, 2016.

IN WITNESS WHEREOF, the Town of Schererville, Lake County, Indiana, acting by and through its duly authorized Officers, has executed this instrument this ____ day of _____, 2016.

**TOWN OF SCHERERVILLE, LAKE COUNTY,
INDIANA, UTILITY BOARD**

MICHAEL A. TROXELL, President

THOMAS J. SCHMITT, Vice-President

ROB GUETZLOFF, Councilmember

KEVIN CONNELLY, Councilmember

JERRY TIPPY, Councilmember

ATTEST:

JANICE M. MALINOWSKI, IAMC, MMC
Clerk Treasurer

ST. JOHN PUBLIC ACTION. This AGREEMENT has been approved by affirmative action of the Town Council of the Town of St. John, Lake County, Indiana, a Public Meeting of the Town Council, after motion duly made and seconded, on the ____ day of _____, 2016.

IN WITNESS WHEREOF, the Town of St. John, Lake County, Indiana, acting by and through its duly authorized and elected Officers, has executed this instrument this ____ day of _____, 2016.

**TOWN OF ST. JOHN,
LAKE COUNTY, INDIANA,
TOWN COUNCIL**

Michael S. Forbes, President

Mark Barenie, Vice-President

Stephen Hastings, Member

Christian J. Jorgensen, Member

Gregory J. Volk, Member

ATTEST:

Beth R. Hernandez, Clerk Treasurer

ST. JOHN PUBLIC ACTION. This AGREEMENT has been approved by affirmative action of the Board of Sanitary Commissioners of the Sanitary District of the Town of St. John, Lake County, Indiana, at a Public Meeting of the Sanitary District Board, after motion duly made and seconded, on the ____ day of _____, 2016.

IN WITNESS WHEREOF, the Town of St. John, Lake County, Indiana, acting by and through its duly appointed and authorized Officers, has executed this instrument this ____ day of _____, 2016.

**TOWN OF ST. JOHN,
LAKE COUNTY, INDIANA,
SANITARY DISTRICT BOARD**

Frank Bradtke, President

Patricia Sims-Smierciak, Vice-President

Kenneth D. Gembala, Member

Robert Kmetz, Member

Richard Setlak, Member

ATTEST:

Beth R. Hernandez, Clerk Treasurer