

**AN AGREEMENT FOR WASTEWATER CONVEYANCE AND
TREATMENT BETWEEN THE CITY OF ROCHELLE, ILLINOIS AND
THE VILLAGE OF HILLCREST, ILLINOIS**

THIS AGREEMENT ("Agreement") made and entered into this ____ day of _____, 2009, between the City of Rochelle, an Illinois Municipal Corporation, (hereinafter referred to as "Rochelle") and the Village of Hillcrest, an Illinois Municipal Corporation, (hereinafter referred to as "Hillcrest"). Rochelle and Hillcrest are collectively referred to herein as the "Parties":

WITNESSETH:

THAT WHEREAS, Article VII, Section 10, of the 1970 Illinois Constitution and the Intergovernmental Cooperation Act (5 ILCS 220/1 et. seq.) authorize and encourage intergovernmental agreements for the providing of governmental services; and

WHEREAS, Rochelle owns and operates wastewater conveyance and treatment facilities; and

WHEREAS, Hillcrest desires and needs to utilize certain wastewater conveyance and treatment facilities owned by Rochelle; and

WHEREAS, Rochelle has sufficient capacity to serve the present and future needs of Hillcrest; and

WHEREAS, it is in the interest of public health, safety, and welfare and the economic interest of both Rochelle and Hillcrest to enter into an intergovernmental agreement concerning wastewater conveyance and treatment and cooperation in seeking funds and necessary approvals for construction of same ;

NOW THEREFORE, in consideration of the mutual covenants and agreements herein contained, it is agreed as follows:

**ARTICLE I
Definitions**

General Manager: The General Manager of Rochelle Municipal Utilities.

Federal Agency: Any agency of the United States of America exercising jurisdiction over the Rochelle System and/or the Hillcrest System, including the United States Environmental Protection Agency.

Force Majeure: An act of God, strike, industrial disturbance, act of the public enemy, war, blockade, public riot, lightning, fire, storm, flood, explosion, failure to timely receive necessary governmental approvals, governmental restraints, unavailability of

equipment, and any other significant cause which is not reasonably within the control of the party claiming force majeure.

Hillcrest: Village of Hillcrest, Illinois, an Illinois municipal corporation located in Ogle County, Illinois.

Hillcrest Service Area: The territory within the corporate limits of the Village of Hillcrest.

Hillcrest System: Wastewater collection sewers and metering station(s) to be constructed and owned by Hillcrest.

Interceptor Sewer: A sanitary sewer main, a minimum of 15-inches in diameter, that has a limited number of connections and no sewer service laterals .

Population Equivalent Flow (P.E.): One population equivalent is 100 gallons of sewage per day containing 0.17 pounds of BOD5 and 0.20 pounds of suspended solids. In determining P.E. the highest of the three parameters shall be used.

POTW: Publicly Owned Treatment Works: A treatment works owned by the City of Rochelle which treats domestic and industrial wastes collected by a publicly owned or regulated sewer system.

Rochelle: City of Rochelle, an Illinois municipal corporation located in Ogle County Illinois.

Rochelle Municipal Utilities (RMU): The Department of the City of Rochelle with direct responsibility for all wastewater collection and treatment activities.

Rochelle System: POTW, sewerage system, and all equipment, mains, meters, and wastewater sewage facilities appurtenant thereto owned by Rochelle.

Sewage: Water-carried human and related wastes from any source.

Sewerage System: The system of pipes, pumping stations, and other sewage/wastewater collection system appurtenances.

State Agency: Any agency of the State of Illinois exercising jurisdiction over the Rochelle System and/or the Hillcrest System including the Illinois Environmental Protection Agency.

Wastewater: The combination of the liquid and water carried wastes from residences, commercial buildings, industrial plants, and/or institutions including polluted cooling water, plus any admixed land runoff.

ARTICLE II
Hillcrest Wastewater Collection System

1. Wastewater Collection System. Hillcrest ,may, in its sole discretion, construct the Hillcrest System in phases. Hillcrest shall use its best efforts to complete all, or substantially all, of the portion of the Hillcrest System that will serve the existing portions of Hillcrest which are currently served by septic system, within five (5) years from the date of this Agreement. In the event no permit has been issued by the Illinois Environmental Protection Agency (IEPA) for construction of a sanitary sewer system to serve all or substantially all of said portions of Hillcrest within three (3) years from the date of this Agreement, or in the event said construction has not been completed within five (5) years from the date of this Agreement, Rochelle may withhold its approval of any permits for construction of the Hillcrest System for other portions of Hillcrest until completion of the construction required in this paragraph. . The Hillcrest System, or any phase thereof, shall be constructed, operated, and maintained in accordance with plans and specifications prepared by its consulting engineers and approved by the State Agency. Subject to the foregoing, the parties shall cooperate with respect to Hillcrest's efforts to seek funding for said construction, including any available state or federal loans and/or grants, and with respect to obtaining any necessary permits or approvals for same.

2. Insurance. Hillcrest shall not commence construction of any connections of the Hillcrest System to the Rochelle System until Hillcrest has supplied to Rochelle proof of insurance coverage by all contractors and subcontractors constructing the Hillcrest System which certificates of insurance shall name Hillcrest and Rochelle as named insured's with the following minimum amounts and types of insurance coverage.

Comprehensive General Liability

Personal Injury	\$500,000/person \$1,000,000/occurrence
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Property Damage	\$500,000/occurrence
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Workers' Compensation	Statutory Amount
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Blasting: If blasting operations are included in the construction specifications, coverages shall be specifically included in the above general liability amounts and coverage terms.

3. Property Acquisition and Approvals. Hillcrest shall be solely responsible for the acquisition of all necessary rights-of-way, easements, construction permits, and/or approvals required for construction of the Hillcrest System and connection to the Rochelle System. For easements at the points the Hillcrest System is connected the Rochelle System, both Hillcrest and Rochelle shall be listed as Grantees on the easements. Hillcrest and Rochelle shall also be listed as Grantees on the easements that are both in Rochelle's FPA and in Hillcrest's corporate boundary to permit Rochelle

to operate and maintain Interceptor Sewers that are owned by Rochelle. Hillcrest shall grant Rochelle access to any public right-of-way over which Hillcrest has jurisdiction, and to permit Rochelle to operate and maintain Interceptor Sewers that are owned by Rochelle. Subject to the provisions of Article II, Section 1, Rochelle shall authorize and support all IEPA permit applications that will be required to construct the Hillcrest System. To the extent that Hillcrest must undertake construction, or, if applicable, future maintenance and repairs, within Rochelle's corporate limits and/or FPA, Rochelle shall fully cooperate with Hillcrest's efforts to secure permits or approvals. To the extent that Rochelle must undertake construction, or, if applicable, future maintenance and repairs, within Hillcrest's corporate limits and/or FPA, Hillcrest shall fully cooperate with Rochelle's efforts to secure permits or approvals.

4. Initial Connection Point. Hillcrest shall be responsible for extending and connecting the Hillcrest System to the Rochelle System at the present terminus of the Rochelle System at the existing buried manhole approximately 740 feet north of Rochelle's existing Akesson Park Lift Station and approximately 80 feet west of the centerline of the Kyte River (also known as Kyte Creek) provided, however, that Hillcrest shall not be required to expend solely Hillcrest's funds for said extension, it being the intent of the parties that said extension shall be partially funded by state and/or federal grants and/or by developer contribution.

5. Future Connection Point(s). Additional connection points will be necessary as the Hillcrest System expands. The Parties have preliminarily analyzed the future expansion(s) of the Hillcrest System and have identified certain locations that may be suitable for future connections to the Rochelle System, in accordance with Rochelle's Sanitary Sewer Master Plan. Exhibit A, attached hereto and incorporated herein, identifies the initial connection point and the preliminary locations of the future connection point(s) and also the location(s) for the additional meter(s) that will be required at each new connection. Exhibit F, attached hereto and incorporated herein, illustrates Rochelle's Sanitary Sewer Master Plan as it exists on the date of this Agreement. Rochelle may modify its Sanitary Sewer Master Plan from time to time. The actual location of each of Hillcrest's future connection points shall be consistent with Rochelle's Sanitary Sewer Master Plan as it exists on the date when Hillcrest notifies Rochelle that it is starting to plan construction of the sewers that run to each connection point. If Hillcrest does not begin construction of the sewers within three years from the date of notification, Rochelle may revise the connection point based upon revisions to the Rochelle Sanitary Sewer Master Plan. Hillcrest may request an extension of the three year period. Rochelle's approval of said extension request shall not be unreasonably withheld.

6. Ownership of Connection(s). Ownership of the portion of the 18-inch diameter sewer line from Hillcrest's Metering Manhole A as shown on Exhibit A to Rochelle's manhole, which is identified in Article II Section 4 – Initial Connection Point, said 18-inch sewer to be constructed by Hillcrest within Rochelle's corporate boundary, shall be transferred to Rochelle not later than thirty (30) days after wastewater is first discharged by Hillcrest into the Rochelle System. Rochelle shall not authorize or permit new connections to the

transferred portion(s) of the sewer line(s) without Hillcrest's prior approval, not to be unreasonably withheld.

7. Rochelle Interceptor Sewer in Hillcrest. As shown on Exhibit F, Rochelle intends the construction of an interceptor sewer along the west side of the Kyte River (also known as Kyte Creek). A portion of this interceptor sewer will be inside Hillcrest's corporate limits. A metering manhole equipped with a flow meter shall be installed upstream of each connection to this interceptor that is made by Hillcrest, a developer of property in Hillcrest, or a builder of a building in Hillcrest. The cost of installing the interceptor sewer shall be recapturable as stipulated in Paragraph 8 of this Agreement. RMU shall own, operate and maintain all interceptor sewers that are in Rochelle's FPA.

8. Recapture.

A. Facilities Constructed by Hillcrest .To the extent Hillcrest (or any developer on Hillcrest's behalf) expends any of Hillcrest's (or the developer's) funds in making the initial or future connections to the Rochelle System, the funds expended by Hillcrest (or the developer) shall be recapturable, including interest from the date the connections are made to the Rochelle System, from properties within Rochelle's corporate boundary that must connect to such improvements and which will, therefore, be benefitted by such improvements. To effectuate this Agreement, the parties shall enter into a Recapture Agreement in substantially the form attached hereto as Exhibit G, which identifies the benefitted properties and the method for calculating recapture amounts. If necessary, Rochelle shall amend its City ordinances to provide that benefitted properties shall pay an additional connection fee to cover the recapture amounts.

B. Facilities Constructed by Rochelle .To the extent Rochelle (or any developer on Rochelle's behalf) expends any of Rochelle's (or the developer's) funds in constructing the interceptor sewer described in Paragraph 7 above or in extending sewers to one of Hillcrest's future connection points, the funds expended by Rochelle (or the developer) shall be recapturable, including interest from the date the connections are made to the Rochelle System, from properties within Hillcrest's corporate boundary that must connect to such improvements and which will, therefore, be benefitted by such improvements. To effectuate this Agreement, the parties shall enter into a Recapture Agreement substantially in the form attached herto as Exhibit H, which identifies the benefitted properties and the method for calculating recapture amounts. If necessary, Hillcrest shall amend its Village ordinances to provide that benefitted properties shall pay an additional connection fee to cover the recapture amounts.

9. Maintenance of the Hillcrest System. Hillcrest shall be responsible for the maintenance of the Hillcrest System.

ARTICLE III
Wastewater Treatment

1. Rochelle Acceptance. Rochelle shall accept all wastewater without interruption from the Hillcrest Service Area pursuant to the terms of this Agreement; provided, however, such wastewater shall meet the requirements of State and Federal Agencies and of the City of Rochelle for the use of the Rochelle System. Rochelle shall treat and dispose of the wastewater from the Hillcrest Service Area in accordance with quality control standards of the State and Federal Agencies and its NPDES Permit.

2. Improper Discharges. Hillcrest shall prohibit from the Hillcrest System and entry into the Rochelle System, the following:

- A. Any wastewater which may cause pass through or interference to the Rochelle System;
- B. Any wastewater that is prohibited in the Rochelle Municipal Code; and,
- C. Any wastewater which is prohibited by any State or Federal Agency.

Hillcrest shall adopt similar ordinances regarding unacceptable wastewater discharges which are at least as stringent as the Rochelle Municipal Code, as amended or superseded, and which contain local limits which are as stringent as Rochelle now, or may, in the future, impose upon its users of the Rochelle System. Hillcrest shall be responsible to Rochelle for any surcharges for unacceptable wastewater discharges from the Hillcrest System into the Rochelle System. Hillcrest shall submit a revised user inventory on at least an annual basis to Rochelle.

Rochelle shall notify Hillcrest in writing of any proposed ordinances which would change, alter, or amend the Rochelle Municipal Code and regulations concerning unacceptable wastewater discharges and allow Hillcrest to be heard before adopting any such ordinances.

3. Pretreatment Implementation. Rochelle shall be responsible for wastewater discharge permit issuance, inspection, sampling, and enforcement of all commercial and industrial dischargers to the Hillcrest System. Rochelle shall enforce its ordinances and procedures, including, but not limited to, permit issuance, inspections, sampling and enforcement, against dischargers to the Hillcrest System in the same manner in which it would enforce its ordinances and procedures against similarly situated dischargers to the Rochelle System. The General Manager of Rochelle Municipal Utilities or his designee shall have access to commercial and industrial user sites for the purpose of inspection and sampling. Rochelle shall have the right to take legal action to enforce the terms of Hillcrest's ordinance or to take enforcement action upon noncompliant dischargers in the event Hillcrest is unable or unwilling to take such action.

ARTICLE IV
Facility Planning Areas and Service Areas

1. Facility Planning Areas. The execution and implementation of this Agreement shall not require modification of the Rochelle Facility Planning Area or the Hillcrest Facility Planning Area. The Rochelle and Hillcrest Facility Planning Areas are identified in Exhibit B and Exhibit C, respectively, attached hereto. Nothing contained herein shall be interpreted as a limitation on the ability of Rochelle and Hillcrest to expand their respective facility planning areas. However, expansions to the facility planning areas shall be limited by that certain jurisdictional boundary line agreement ~~that was~~ entered into by the Parties on the same date as this Agreement, 2009.

2. Hillcrest Service Area. Rochelle shall be obligated to provide wastewater treatment service to any property that is currently included within Hillcrest's corporate boundary or any property that will be included within such boundary in the future.

ARTICLE V
Measurement of Hillcrest System Flow

1. Metered Area. Hillcrest shall construct and maintain accurate wastewater-metering device(s), of a type and at location(s) approved by Rochelle, to measure the volume of wastewater discharged from Hillcrest to Rochelle. The metering device(s) shall be equipped with recording/totalizing mechanisms, which indicate the rate of flow and measure and totalize the quantity of wastewater passing through the meter(s). The reading and recording of results of the metering device(s) shall be performed by Rochelle.

2. Semi-Annual Testing. The wastewater measuring device(s) used to measure the sewage discharged from the Hillcrest System to the Rochelle System shall be tested semi-annually for accuracy by a qualified third party, and the results will be supplied to Hillcrest and Rochelle. Hillcrest will be responsible for payment of the semi-annual calibration of the meter. If a Rochelle-approved magmeter is used for the sewage flow measuring device(s), the semiannual testing and calibration is not required.

3. Access, Testing and Calibration. Both Rochelle and Hillcrest shall have the right of access to any metering device(s) and recording instrument(s) for the purpose of making accuracy or calibration tests on said devices. Such tests shall be made after five days prior written notice of the time and place that said tests are to be performed.

If tests indicate that any metering device has not properly measured the volume of wastewater through the meter, a reasonable adjustment of the measured wastewater flow and past billing shall be made; provided, however, no adjustments shall be made for more than the preceding six (6) month period.

4. Measurement of Concentration of Pollutants. Rochelle shall be responsible for routinely testing the discharge from the Hillcrest System for the purpose of measuring

the loadings and concentrations of pollutants at a sampling point(s) agreed upon by both Hillcrest and Rochelle. Hillcrest shall be responsible for any additional testing required.

ARTICLE VI REPORTING REQUIREMENTS AND SYSTEM EXPANSION

1. Hillcrest. On or before December 31 of each calendar year Hillcrest shall deliver to Rochelle a projection of the amount of wastewater that Hillcrest expects to generate annually over a twenty (20) year period ("Annual Volume Projection"). Failure to deliver the Hillcrest Annual Projection in any year shall cause Rochelle to rely upon the most recent annual version of said report in forecasting the excess capacity of the Rochelle System. The Hillcrest Annual Projection shall include:

A. The average daily wastewater flow that Hillcrest expects to discharge to the Rochelle System on an annual basis and for a twenty (20) year period;

B. The number of residential units expected to be added to the Hillcrest System on an annual basis and for a twenty (20) year period; and,

C. All available information regarding future commercial, industrial and institutional developments during a twenty (20) year period.

2. Rochelle. On or before June 30th of each calendar year Rochelle shall deliver to Hillcrest a report summarizing the volume of wastewater currently serviced by the Rochelle System and projecting the amount of excess wastewater treatment capacity that will be available annually over a twenty (20) year period ("Annual Capacity Report"). Failure to deliver the Hillcrest Annual Projection in any year shall cause Rochelle to rely upon the most recent annual version of said report in forecasting the excess capacity of the Rochelle System. The Annual Capacity Report shall include:

A. An analysis of the volume of wastewater serviced by the Rochelle System, from all sources, during the reporting year;

B. A description and summary of all of the annual projection reports that are submitted to Rochelle by the various communities whose wastewater is serviced by the Rochelle System, including the City of Rochelle; and,

C. A description of Rochelle's planned improvements to, and expansion of, the Rochelle System.

3. Expansion. Rochelle shall expand the Rochelle System to ensure that sufficient wastewater treatment capacity exists to service Hillcrest's future volume projections.

ARTICLE VII
Charges, Rates, Notice and Payment

1. Governing Intent. It is the intent of this Agreement that the POTW will be owned and operated by Rochelle for the mutual benefit of Rochelle and Hillcrest. This Agreement is intended to be consistent with this statement of intent and ambiguities shall be so construed to affect this objective.

2. Charges to Hillcrest. Hillcrest shall be billed as a single entity rather than having each homeowner billed. As described in Article V above, the bill will be based on the monthly flow as measured by Hillcrest's wastewater metering devices , excluding those properties that are subject to Article VII, Section 3 of this Agreement. Hillcrest will be responsible for billing individual homeowners.

3. Properties that Discharge into the Hillcrest System. Payment to RMU for transport and treatment of Wastewater from properties that discharge Wastewater into the Hillcrest System will be based on the volume of Wastewater measured by Hillcrest's wastewater metering devices , as described in Article V above. Hillcrest will be responsible for billing property owners that discharge into the Hillcrest System. As of the execution date of this Agreement the rate charged by RMU shall be ~~\$x.xx~~2.81 per one-hundred cubic feet of wastewater ("HCF"), plus a fixed rate charge of \$80.10 per month. This rate will include costs for transporting Hillcrest's Wastewater through the Rochelle sewerage system and for treatment of Hillcrest's Wastewater at Rochelle's POTW. This rate will account for debt service, fixed charges, basic user fees, IEPA replacement costs and capital improvement expenses. RMU shall be allowed to adjust its rate once per calendar year to reflect changes in its operating expenses.

4. Connection Fees. Sewer connection fees shall be paid to RMU for all building units that will discharge Wastewater into the Hillcrest System, and also for all building units that will discharge Wastewater directly into the Rochelle System. Amounts paid to RMU shall be as stipulated in Paragraphs A. through D. below. .

A. Existing Building Units: Hillcrest shall pay to RMU all connection fees for building units in existence as of the date of this Agreement, including any proposed building units for which building permit applications have been submitted as of the date of this Agreement. RMU shall bill Hillcrest upon completion of any phase of construction of the Hillcrest System for all such building units to be connected to the Hillcrest System as a result of said construction. Hillcrest shall pay RMU's bill in not more than sixty (60) equal monthly installments, beginning on the due date shown on the bill for the first payment, without interest. The connection fees shall be in accordance with the Fee Schedule shown in Exhibit D.

B. Future Building Units: As new building permits are issued subsequent to the date of this Agreement, Hillcrest shall collect a sewer connection fee on behalf of RMU. The amount of the connection fee shall be that which is in effect at the

time the building permit application is received by Hillcrest. The connection fee shall not be assessed against improvements that do not require sanitary sewer service. Said fee is payable to RMU not later than thirty (30) days after issuance of the new building permit(s).

C. Commercial Users: Commercial customers in Hillcrest shall be subject to the same connection fees as commercial customers in Rochelle.

D. Industrial Users: Industrial customers in Hillcrest shall be subject to the same connection fees as industrial customers in Rochelle and shall be required to meet with RMU and to allow RMU to examine their manufacturing processes as provide in Article III Section 3 of this Agreement.

E. Increases in Commercial and Industrial Discharges: After the initial connection fee is paid, if a commercial or industrial user increases its discharge or proposed discharge above the PE shown in its IEPA connection permit, or in the absence of an IEPA permit, the PE stated in the Hillcrest building permit, the user shall pay a connection fee equal to the amount of the increased PE at the rate (\$ per PE) that is in effect at the time.

F. New Connections made by Existing Commercial and Industrial Users: Rochelle will grant a credit to existing commercial and industrial users, which construct new connections to the Hillcrest System. The credit will be in an amount equal to the projected PE reduction from their previous sewer connection fee.

G. Tracking Connections and Payment of Connection Fees: Hillcrest shall establish a process by which Hillcrest will notify RMU that a service connection is being installed. For existing building units, Hillcrest will keep a record of which properties have been connected, update the record monthly, and send the updated record to RMU monthly.

5. Rate Increases. Rochelle may not increase the fees and rates described in this Agreement in disproportion to the increase paid by Rochelle homeowners, i.e., only those increases necessary and proportionate to that paid by the average homeowner in Rochelle may be charged to Hillcrest.

6. Billing and Payment. All charges and fees to be paid by Hillcrest to RMU shall commence upon the first discharge of wastewater from the Hillcrest System to the Rochelle System and shall be based on meter readings of the meter(s) described in Article V above, and billed monthly. Rochelle shall furnish Hillcrest with a summary of all meter readings in its monthly statements to Hillcrest. Said summary shall be delivered to Hillcrest not later than the fifteenth (15th) day of each month.

Hillcrest shall pay each statement within thirty (30) days of receipt, provided that Hillcrest receives the statement at least 10 days prior to Hillcrest's regular Village Board

Meeting. Any late payment by Hillcrest to Rochelle shall be assessed a late penalty charge consistent with Rochelle late penalty charges as from time to time adopted by Rochelle for its residents. All records of both Rochelle and Hillcrest shall be made available to either party, any State Agency and any Federal Agency at all times upon request. Rochelle shall have a lien on the Hillcrest System for any charges and fees due Rochelle from Hillcrest for the services herein provided.

7. Compliance with Laws Regarding User Charges. Rochelle and Hillcrest each agree to comply with all applicable State Agency and Federal Agency statutes and regulations pertaining to the imposition of fair and equitable user charges concerning the cost of construction and for the operation and maintenance of the POTW. In the event there are no such statutes or regulations applicable to equitable user charges, then Rochelle and Hillcrest agree that such user charges shall not be arbitrary or capricious.

8. Review of Plan and Permit Applications. Subject to Article II, Section 1, upon request from Hillcrest, Rochelle will promptly review proposed development and engineering plans and IEPA permit applications for new construction, as they relate to sewers. The charges for such services shall be based on Rochelle's current hourly labor rates.

ARTICLE VIII General Conditions

1. Rochelle Right to Inspect and Review. Rochelle, or any of its duly authorized employees, upon reasonable written notice first given to Hillcrest, shall be permitted to inspect the Hillcrest System and the facilities of its users to ensure that they are being operated in compliance with the standards of State and Federal Agencies. The names of those persons so authorized by Rochelle to conduct the inspection shall be set forth in the notice.

2. Hillcrest Ordinance. Hillcrest shall require as a condition of wastewater service to a user that the construction, materials, and inspection of construction for all wastewater connections to the Hillcrest System be inspected to minimize inflow and infiltration. Hillcrest shall adopt and enforce such ordinances necessary to prohibit the future introduction of surface and groundwater and unpermitted solid or hazardous waste to the Hillcrest System.

ARTICLE IX School Impact & Transition Fees

1. Intent. Rochelle and Hillcrest each acknowledge and agree that it is in their mutual best interest to standardize and make uniform their school impact fees and transition fees to prevent any deleterious impact upon the various school districts that service the Rochelle and Hillcrest communities. The Parties hereby agree to the following in furtherance of their mutual interests:

2. Impact Fee Ordinance. Within 120 days after the date of this Agreement, Hillcrest shall enact an ordinance imposing school impact fees on new residential developments to be located within Hillcrest, in form and substance substantially identical to Article V, Secs. 86-231 et seq., of the Rochelle Municipal Code, a copy of which is attached hereto as Exhibit I.

3. Transition Fee Resolution. Within 120 days after the date of this Agreement, Hillcrest shall adopt a resolution governing the requirement of transition fees in any annexation agreement for new developments to be located within Hillcrest, in form and substance substantially identical with Resolution R06-18 of the City of Rochelle, a copy of which is attached hereto as Exhibit J.

4. The Burke Farm Development Agreement. Within 120 days after the date of this Agreement, Hillcrest shall take all steps necessary to amend that certain development agreement by and between Hillcrest and Burke Farm, LLC and dated August 30, 2007 ("the Development Agreement"). The amended Development Agreement shall require Burke Farm, LLC, and/or its successors and assigns, to pay school impact and transition fees in accordance with the fee schedule attached hereto as Exhibit E.

5. Fee Modifications. Rochelle may modify, reduce, or alter the school impact and transition fees it applies to new residential developments at any time. At any time, Hillcrest may elect, in its sole discretion, to adopt any modification, reduction, or alteration that Rochelle makes to its school impact and transition fees for any reason. Provided, however, that Hillcrest shall be obligated to adopt the school impact and transition fees applied by Rochelle to new residential developments at five (5) year intervals following the enactment of the ordinance described above in Section 2 of this Article IX and the adoption of the resolution described in Section 3 of this Article IX.

6. Remedies; Third-Party Beneficiaries. In the event Hillcrest should fail to impose school impact fees, or contract for and collect transition fees, on any development, in violation of the terms of this Agreement, any school district which is damaged by said violation shall have the right to sue Hillcrest to enforce the terms of this Article by any legal or equitable remedy available to them, and to recover their costs, including reasonable attorney's fees, and the parties agree that said school districts shall be third party beneficiaries of this Agreement for that purpose.

ARTICLE X Default

If either Hillcrest or Rochelle shall default in the performance of any of their respective obligations under this Agreement and if such default shall continue for forty-five (45) days after written notice hereof from the non-defaulting party specifying in what manner the other party has defaulted (except that if such default cannot be cured within the forty-five (45) day period, this period shall be extended for a reasonable additional time, provided that the defaulting party commences to cure such default within the forty-five (45) day period and proceeds diligently thereafter to effect such cure), the

non-defaulting party may cure such default and any costs and expenses incurred thereby shall be reimbursed by the defaulting party.

No failure by any party to insist upon the strict performance of any covenant, agreement, term, or condition of this Agreement, or to exercise any right or remedy consequent upon a breach thereof and no acceptance of full or partial payments during the continuance of any such breach shall constitute a waiver of any such breach or of such covenants, agreement, term, or condition. In the event of any breach by a party of the covenants, agreements, terms, and conditions contained in this Agreement, the non-breaching party shall be entitled to enjoin such breach and shall have the right to invoke any right and remedy allowed at law or on equity by statute or otherwise. Each right and remedy herein shall be cumulative and shall be in addition to every right or remedy provided herein or now or hereafter existing at law or in equity, by statute or otherwise.

ARTICLE XI Enforceability

Any dispute concerning this Agreement, if not otherwise resolved, shall be resolved in the Circuit Court of Ogle County, Illinois, by an appropriate action at law or equity to secure performance of the covenants, agreements, terms, or conditions herein contained. The Circuit Courts of Ogle or Lee County, Illinois, shall constitute the only appropriate forums for the resolution of disputes hereunder and may enforce any provision of this Agreement by injunction, mandatory injunction, specific performance, and/or a money judgment.

ARTICLE XII Hold Harmless, Indemnification, and Force Majeure

Hillcrest will indemnify Rochelle and save Rochelle harmless from and against any and all claims, damages, liabilities and expense in connection with loss of life, personal injury, and/or damage to property arising from or out of any occurrence concerning the Hillcrest System occasioned wholly or in part by an act or omission of Hillcrest, its agents, contractors, officers, and employees. In case Rochelle shall, without fault on its part, be made a party to any litigation commenced by or against Hillcrest, then Hillcrest shall protect and hold Rochelle harmless and pay all costs and expenses incurred and paid by Rochelle in connection with such litigation.

Rochelle will indemnify Hillcrest and save Hillcrest harmless from and against any and all claims, damages, liabilities and expense in connection with loss of life, personal injury, and/or damage to property arising from or out of any occurrence concerning the Rochelle System occasioned wholly or in part by any act or omission of Rochelle, its agents, contractors, officers, and employees. In case Hillcrest shall, without fault on its part, be made a party to any litigation commenced by or against Rochelle, then Rochelle shall protect and hold Hillcrest harmless and pay all costs and expenses incurred and paid by Hillcrest in connection with such litigation.

If any party is rendered unable, wholly or in part, by force majeure to carry out its obligations under this Agreement, other than the obligation to make money payments, that party shall give to the other party prompt written notice of the force majeure with reasonably full particulars and, thereupon, the specified obligations of the party giving the notice, so far as said obligations are affected by the force majeure, shall be limited to the extent that such obligations may be reasonably provided during, but no longer than, the continuance of the force majeure. The affected party shall use all possible diligence to remove the force majeure as quickly as possible. Except to the extent otherwise covered by insurance, no party shall be liable to the other as a result of a force majeure.

ARTICLE XIII New Industrial Users

Anything in this Agreement to the contrary notwithstanding, Rochelle shall have no obligation to accept industrial wastewater from new users of the Hillcrest System in which the quality of the proposed industrial wastewater flow will exceed the limits of any standards for pollutant or contaminate levels imposed upon other users of the Rochelle System.

ARTICLE XIV Interest of the United States

In the event that the construction of the sewage collection system by Hillcrest is being financed by a loan made or insured by, and/or a grant from, the United States of America, acting through the Illinois Environmental Protection Agency, then the provisions hereof pertaining to the undertakings of Hillcrest are conditioned upon the approval, in writing, of the Director of the Illinois Environmental Protection Agency.

ARTICLE XV Term of Agreement

This Agreement will be in effect for a term of forty (40) years from and after its date of execution, and thereafter will continue for six (6) successive periods of ten (10) years, unless either party gives written notice to the other party at least two (2) years prior to either the end of the initial forty (40) year term or any singular ten (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 State agency and Federal agency rules and regulations.

mailed, the notice shall be deemed to have been received on the day following the date of mailing.

3. If fulfillment of any provision of this Agreement or the application thereof to any party or circumstance shall be invalid or unenforceable to any effect, the remainder of this Agreement and the application of the provisions to any other party or circumstance shall not be affected thereby and shall be enforced to the fullest extent permitted by law.

4. No provision of this Agreement shall be construed against or interpreted to the disadvantage of any party by any Court or other governmental or judicial authority by reason of that party having or being deemed to have structured or drafted the provision.

5. The prevailing party to any proceeding or litigation arising from a dispute under this Agreement shall be entitled to reimbursement from the nonprevailing party for Court costs and attorneys' fees incurred in any such proceeding or litigation.

6. This Agreement may be executed in any number of counterparts by the parties hereto and each counterpart shall be deemed to be an original Agreement, and all such counterparts shall together constitute one and the same Agreement.

XIX
Conditions Precedent

1. The effectiveness of this Agreement is conditioned upon the execution and delivery of a boundary agreement between the parties, in the form attached hereto as Exhibit K, or in such other form as may be agreed between the parties, at such time as both parties have adopted comprehensive plans in accordance with all applicable statutes. Until the execution of the boundary agreement, neither party shall have any rights or obligations under this Agreement.

2. The rates set forth in Article VII, Section 3, are subject to approval or ratification by the City Council of the City of Rochelle.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals on the day and year first above written.

City of Rochelle,
an Illinois Municipal Corporation

BY: _____
Its Authorized Officer

ATTEST: _____
City Clerk of Rochelle

Village of Hillcrest, an Illinois
Municipal Corporation

BY: _____
Its Authorized Officer

ATTEST: _____
Village Clerk of Hillcrest

EXHIBIT A

Initial and Future Connection Points

BASTER
 Check, Estimate
 101121 2184020
 28151 2927111
 77991 1282050
 8151 4883582
 12327 5013824
 4880 2115281

WOODMAN
 Consulting Engineers
 101121 2184020
 28151 2927111
 77991 1282050
 8151 4883582
 12327 5013824
 4880 2115281

0 500 1,000 1,500 2,000 Feet



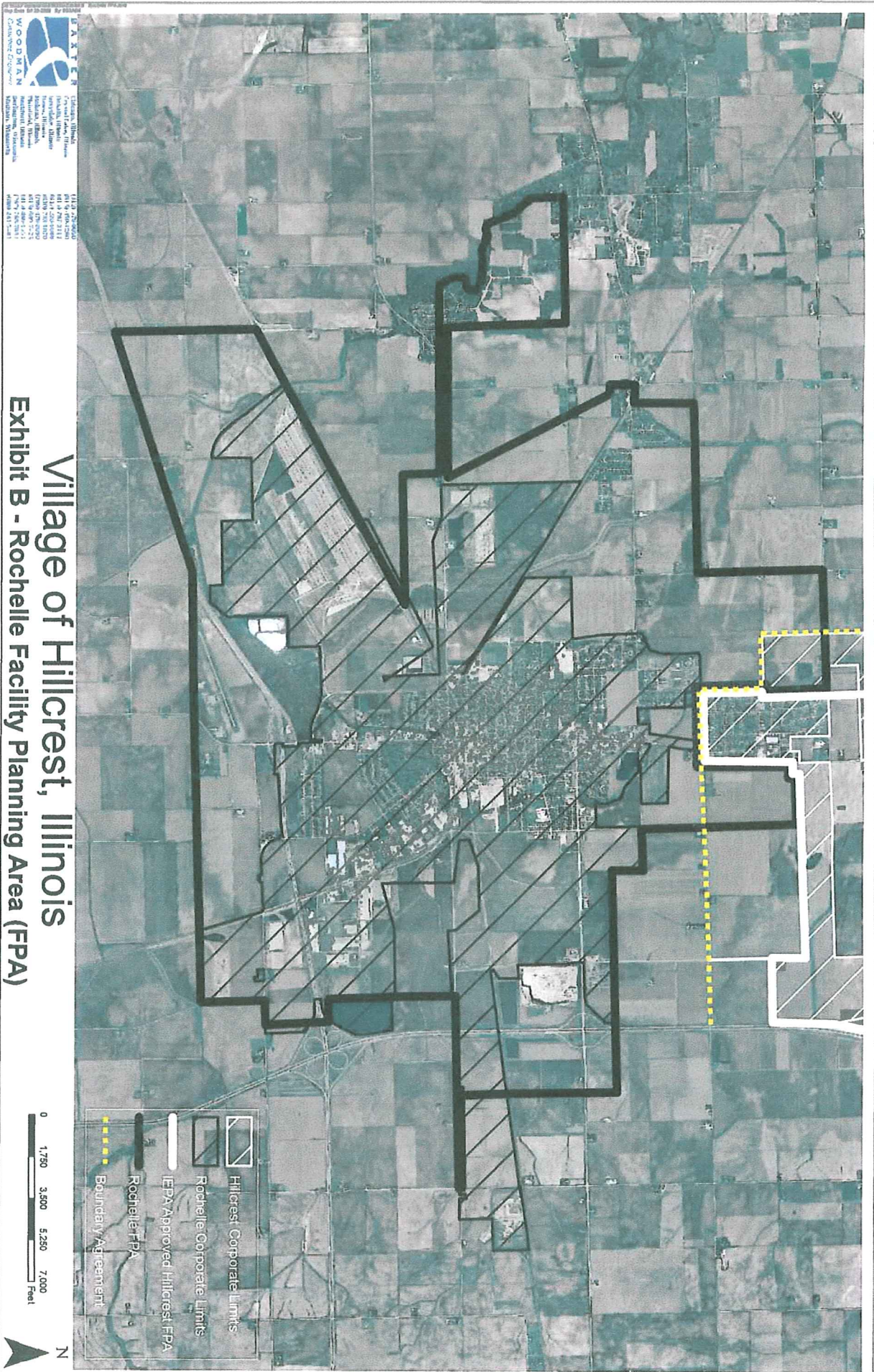
Village of Hillcrest, Illinois

Exhibit A - Initial and Future Connection to Rochelle



EXHIBIT B

Rochelle Facility Planning Area



WOODMAN
 CONSULTING ENGINEERS
 1000 N. WASHINGTON ST.
 DEERFIELD, ILLINOIS 60015
 TEL: 847.296.2313
 FAX: 847.296.2311

Village of Hillcrest, Illinois

Exhibit B - Rochelle Facility Planning Area (FPA)

Legend:

- Hillcrest Corporate Limits
- Rochelle Corporate Limits
- IEPDA Approved Hillcrest FPA
- Rochelle FPA
- Boundary Agreement

Scale: 0 1,750 3,500 5,250 7,000 Feet

North Arrow: N

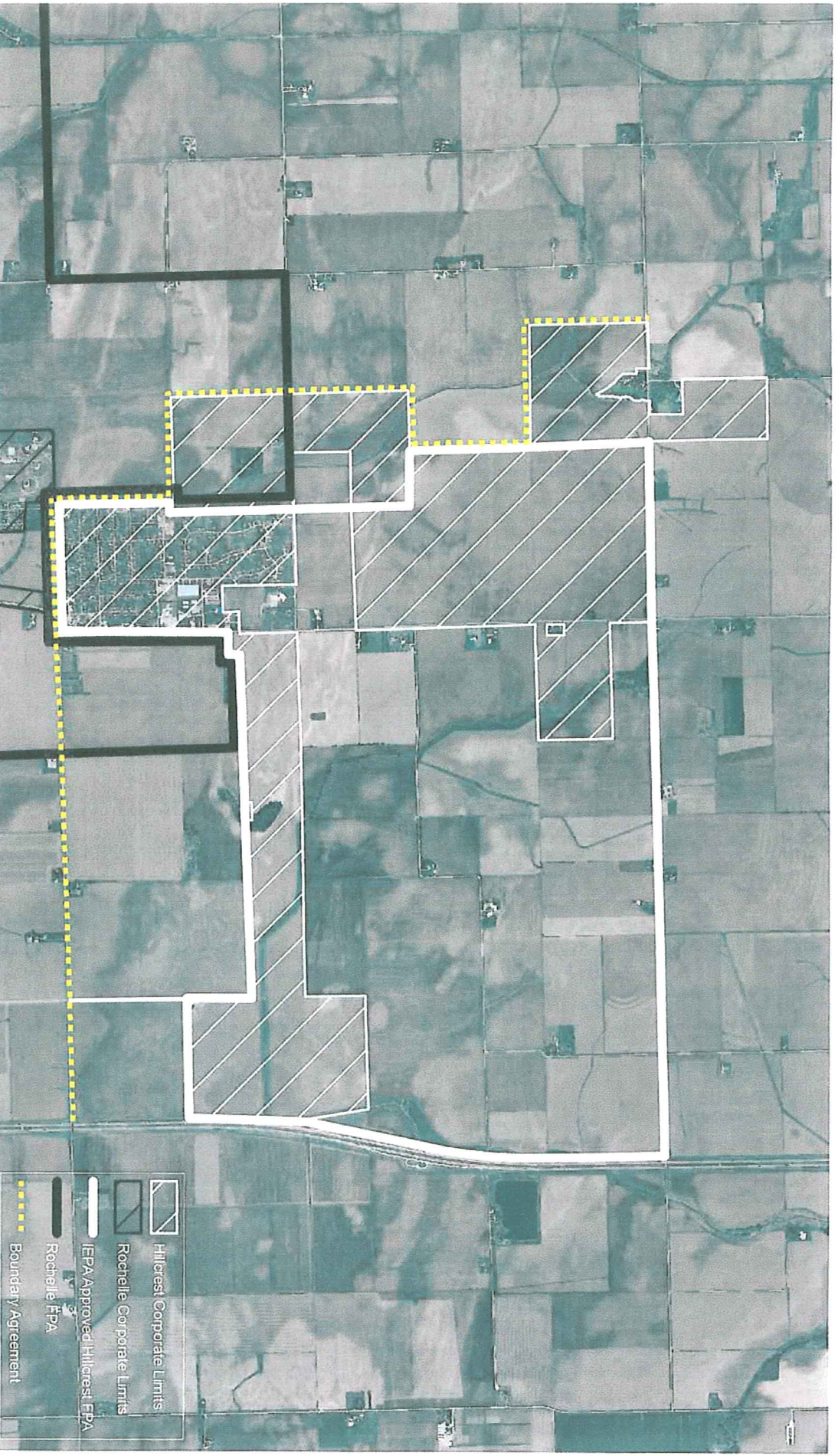
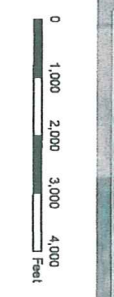
EXHIBIT C

Hillcrest Facility Planning Area

WOODMANN
 Consulting Engineers
 11100 N. 25th Ave.
 Suite 100, Rosemont, IL 60018
 (708) 228-2299
 (708) 228-2299
 (708) 228-2299
 (708) 228-2299

Village of Hillcrest, Illinois

Exhibit C - Hillcrest Facility Planning Area (FPA)



	Hillcrest Corporate Limits
	Rochelle Corporate Limits
	IEPA/Approved Hillcrest FPA
	Rochelle FPA
	Boundary Agreement

EXHIBIT D

Connection Fee Schedule (See Article VII Paragraph 4)

The sewer connection charge is based on population equivalents (PE) as defined in this Agreement.

A. Residential	<u>PE</u>	Connection <u>Fee</u>
Single Family Dwelling	3.5	\$700 per dwelling
<u>Apartments or Multifamily Dwelling</u>		
Efficiency or Studio	1.0	\$200 per dwelling unit
1 bedroom	1.5	\$300 per dwelling unit
2 bedrooms	3.0	\$600 per dwelling unit
3 or more bedrooms	3.0	\$600 per dwelling unit

B. Commercial

Based on the PE stated in the IEPA connection permit, or in the absence of an IEPA permit, the PE stated in the Hillcrest building permit, at a rate of \$200 per PE, but not less than \$700 (the single family dwelling connection fee shown in A. above).

C. Industrial

Based on the flow and PE stated in the IEPA connection permit, or in the absence of an IEPA permit, the PE stated in the Hillcrest building permit, at a rate of \$200 per PE, but not less than \$700 (the single family dwelling connection fee shown in A. above). Charges for flow will be based on the hydraulic impacts the industry has on the Hillcrest System and the Rochelle System. Charges for organic (BOD5) PE and suspended solids PE will be based on organic and solids impacts the industry has on the Hillcrest System and the Rochelle System.

D. Government

At its sole discretion, Rochelle may grant an exemption of all or a portion of the sewer connection fee to units of government. Unless Rochelle grants an exemption, government buildings shall pay the commercial connection fees.

EXHIBIT E

School Impact Fee Schedule for Burke Property

VILLAGE OF HILLCREST

EXHIBIT E

SCHOOL IMPACT/TRANSITION FEE SCHEDULE FOR DEVELOPMENT CONSTRUCTED UNDER THE AUGUST 30, 2007 DEVELOPMENT AGREEMENT

AN AGREEMENT FOR WASTEWATER CONVEYANCE AND
TREATMENT BETWEEN THE CITY OF ROCHELLE, ILLINOIS AND
THE VILLAGE OF HILLCREST, ILLINOIS

	Units ¹ #1- #250	Units ¹ #251- #600
Dwelling Units		
Single Family Detached Dwelling Units ³	\$3,250.00	\$3,679.28
Attached Single Family		
1 Bedroom	\$0.00	\$0.00
2 Bedroom	\$1,619.10	\$ 1,832.96
3 Bedroom	\$2,059.10	\$ 2,331.08
Apartments		
Efficiency	\$0.00	\$0.00
1 Bedroom	\$ 1,116.03	\$ 1,263.44
2 Bedroom	\$ 1,622.07	\$ 1,836.32
3 Bedroom	\$ 2,519.14	\$ 2,851.88

1. The school impact/transition fees in the first column apply to the first 250 dwelling units that will be constructed in Hillcrest under the agreement between Hillcrest and Burke Farm, LLC dated August 30, 2007 (the "Development Agreement"). The impact/transition fees in the second column apply to the 251st through the 600th dwelling units constructed under the Development Agreement.

2. The 601st dwelling unit and following, built under the Development Agreement, shall pay combined school impact and transition fees, which shall be equal to those adopted by Hillcrest in the Ordinance and Resolution described in Article IX Sections 2 and 3 of this Agreement, and which shall not be increased at intervals more frequent than five years.

3. These School impact/transition fees for single family detached homes applies to all homes of this type independent of actual number of bedrooms, whether fewer or more than three bedrooms.

EXHIBIT F

Rochelle Sanitary Sewer Master Plan Map

EXHIBIT G

Form of Recapture Agreement
for
Facilities Constructed by Hillcrest

[FOR RECORDER'S USE]

RECAPTURE AGREEMENT

Date: _____, 20__

Parties: The City of Rochelle, an Illinois municipal corporation (“City”)

and

The Village of Hillcrest, an Illinois municipal corporation (“Owner/Developer”)

Subject Property: See Exhibit A, C

Benefitting Properties: See Exhibit B, C

Estimated Recapture Amounts: See Exhibit D

Prepared By and Return To:
ALAN H. COOPER
400 May Mart Drive
P. O. Box 194
Rochelle, IL 61068
(815) 562-2677
Attorney for City of Rochelle

Attorney for _____

**RECAPTURE AGREEMENT BETWEEN
THE CITY OF ROCHELLE AND THE VILLAGE OF HILLCREST
FOR THE CONSTRUCTION OF PUBLIC IMPROVEMENTS
(Connection to Rochelle Sewer System)**

This Recapture Agreement (connection to Rochelle sewer system) entered into as of the ____ day of ____, 20__, by and between the City of Rochelle, an Illinois municipal corporation with offices at 420 North 6th Street, Rochelle, Illinois 61068 (hereinafter referred to as "City"), and the Village of Hillcrest, an Illinois municipal corporation, with offices at _____, Hillcrest, Ogle County, Illinois (hereinafter referred to as "Owner/Developer").

WITNESSETH

THAT WHEREAS, the Illinois Compiled Statutes, 65 ILCS 5/9-5-1, authorize the use of recapture agreements for the reimbursement of costs of improvements to real estate which benefit more than one property; and

WHEREAS, Owner/Developer is constructing the Hillcrest Sewer System, to be connected to the Rochelle Sewer System, on property legally described on **Exhibit A** attached hereto and incorporated herein by reference (the "Subject Property"); and

WHEREAS, the development of the Subject Property is subject to the terms of an agreement between the parties dated _____, 20__, entitled "An Agreement for Wastewater Conveyance and Treatment between the City of Rochelle, Illinois and the Village of Hillcrest, Illinois", which requires the installation of certain improvements as a condition of either acceptance of a preliminary plat or final plat or the issuance of a building permit, and which further requires the dedication of said improvements to the public; and

WHEREAS, in developing the Subject Property, the Owner/Developer may be

required to pay all or a portion of the cost and expense to design, construct and install certain sewer facilities described as follows: connection to Rochelle sewer system (said improvements being collectively referred to herein as the “Subject Improvements”); and

WHEREAS, the design, construction and installation of the Subject Improvements will benefit certain other properties legally described in **Exhibit B** attached hereto and incorporated herein by reference (said properties being collectively referred to herein as “Benefiting Properties” and individually as a “Benefiting Property”); and

WHEREAS, the general location of the Subject Property and the Benefiting Properties is depicted on the map attached hereto as **Exhibit C** and incorporated herein by reference; and

WHEREAS, Owner/Developer has agreed that it may be required to pay the total cost of the Subject Improvements, provided that the owners of the Benefiting Properties reimburse Owner/Developer in accordance with the terms of this Agreement; and

WHEREAS, the City has determined that the Owner/Developer’s estimate of the costs of the Subject Improvements, as specified on **Exhibit D** is reasonable, and such estimated costs have been fairly and reasonably apportioned between the Owner/Developer and the owners of the Benefiting Properties, as specified on **Exhibit D** attached hereto and incorporated herein by reference; and

WHEREAS, the parties agree that the Benefiting Properties should pay reimbursement (hereinafter “Recapture Payments”) for the Subject Improvements on the basis of the actual costs incurred by Owner/Developer, which actual costs shall include Developer’s reasonable engineering expenses;

NOW, THEREFORE, in consideration of the mutual promises herein contained together with all other agreements and obligations undertaken by the Owner/ Developer with the City, the parties hereby agree as follows:

1. The foregoing recitals are substantive and by this reference are incorporated in the body of this Agreement and made a part hereof.
2. As soon as practicable after the recordation of this Agreement, Owner/Developer shall provide to City a summary of the actual costs incurred by Owner/Developer for engineering and construction of the Subject Improvements, with such supporting documentation as may be requested by City.
3. The parties agree that the City shall take all reasonable steps to collect from the owners of the Benefiting Properties that portion of the actual costs incurred by Owner/Developer for engineering and construction of the Subject Improvements which is apportioned to the Benefiting Properties as shown on **Exhibit D** (hereinafter referred to as the "Recapture Amount"). The Recapture Amount may vary from the estimate shown on **Exhibit D**, if the actual costs vary from the estimated costs. The City shall promptly remit to Owner/Developer all Recapture Payments (in amounts equal to the Recapture Amount) received from the owners of the Benefiting Properties.
4. The City shall become obligated to collect, and the owners of the Benefiting Properties shall become obligated to pay, the required Recapture Amount when the Benefiting Properties individually make use of or benefit from the Subject Improvements, as determined by the City in the reasonable exercise of its discretion.
5. The City may, and will use its best efforts to, condition the annexation, subdivision and issuance of any building, occupancy, connection, or access permits upon

payment by the owners of the Benefiting Properties of an appropriate share of the Recapture Amount under this Agreement.

6. Owner/Developer shall be entitled to the payment from the Benefiting Property owners and developers from the funds reimbursed to the City. The City's obligation to deliver the Recapture Amount or to make any Recapture Payment collected pursuant to this Agreement, constitutes a limited obligation of the City, payable solely from the amounts received by the City from the owners of the Benefiting Properties as Recapture Amount(s). Said obligation does not now and shall never constitute a general indebtedness of the City within the meaning of any State of Illinois constitutional or statutory provision, or give rise to any pecuniary liability of the City. Nothing contained herein, however, shall be deemed to exonerate or exculpate the City from liability in the event of willful or intentional failure to perform the duties assumed by it hereunder as to collection of the Applicable Recapture Amount(s) or payment of the Recapture Payment(s).

7. The Recapture Amounts shall bear interest at ___ percent (___%) per annum, from and after the date of acceptance of the Subject Improvements by the City. The interest amount shall be adjusted after the first two (2) years based on the increase or decrease in the U.S. Government's Consumer Price Index.

8. The Recapture Amount shall include, to the extent not prohibited by law, any and all costs and reasonable attorney's fees of the City reimbursed by Owner/Developer in connection with the acquisition of any easements reasonably necessary to construct the Subject Improvements.

9. The obligations imposed upon the Benefiting Properties under this Agreement shall be a covenant running with the land and shall constitute encumbrances against the land so as to bind the owners and any successor owners of record of the Benefiting Property.

10. The City agrees to approve this Agreement by ordinance, and this Agreement shall become effective upon both execution by the parties and recording of this Agreement and said ordinance with the Recorder of Ogle County, Illinois, as provided by law. City shall record this Agreement, with the costs of recordation to be borne by Owner/Developer.

11. The failure or omission of the City to require payment of any Applicable Recapture Amount(s) by a Benefiting Property Owner to the City in accordance with this Agreement shall not relieve such Benefiting Property Owner of the obligation to pay the Applicable Recapture Amount(s), and the City agrees that Owner/Developer shall have the right to enforce such obligation directly against such Benefiting Property Owner in any court of competent jurisdiction. In any such proceeding Owner/Developer shall also be entitled to recover its reasonable attorneys' fees and costs from such Benefiting Property Owner to the extent not prohibited by law.

12. Owner/Developer has had the benefit of consultation with its own attorney in connection with the validity, enforceability and construction of this Agreement, and acknowledges that the City has made no representations or warranties in that regard. In the event of any litigation concerning the validity, enforceability or construction of this Agreement, Owner/Developer shall indemnify and hold harmless the City from and against any and all costs (including without limitation attorney's fees, court costs and

expenses) incurred by the City, and shall indemnify and hold harmless the City from any liabilities, judgments or settlement payments in connection therewith.

IN WITNESS WHEREOF, the parties to this Agreement by their signatures acknowledge that they have read and understand this Agreement and intend to be bound by its terms.

CITY OF ROCHELLE, an Illinois municipal corporation

ATTEST:

By: _____
City Manager

By: _____
City Clerk

OWNER/DEVELOPER

an _____

By: _____
Its: _____

STATE OF ILLINOIS)
)
COUNTY OF OGLE) SS.

The foregoing instrument was acknowledged before me by Ken Alberts, City Manager, and Bruce McKinney, City Clerk, this _____ day of _____, 20__.

NOTARY PUBLIC

STATE OF _____)
)
COUNTY OF _____) SS.

The foregoing instrument was acknowledged before me by _____, the _____ of the Village of Hillcrest, this _____ day of _____, 20__.

NOTARY PUBLIC

EXHIBIT H

Form of Recapture Agreement
for
Facilities Constructed by Rochelle

[FOR RECORDER'S USE]

RECAPTURE AGREEMENT

Date: _____, 20__

Parties: The Village of Hillcrest, an Illinois municipal corporation (“Village”)

and

**The City of Rochelle, an Illinois municipal
corporation(“Owner/Developer”)**

Subject Property: See Exhibits A, C

Benefitting Properties: See Exhibits B, C

Estimated Recapture Amounts: See Exhibit D

Prepared By and Return To:

**ALAN H. COOPER
400 May Mart Drive
P. O. Box 194
Rochelle, IL 61068
(815) 562-2677
Attorney for Village of Rochelle**

Attorney for _____

**RECAPTURE AGREEMENT BETWEEN
THE VILLAGE OF HILLCREST AND THE CITY OF ROCHELLE
FOR THE CONSTRUCTION OF PUBLIC IMPROVEMENTS
(Connection to Rochelle Sewer System)**

This Recapture Agreement (connection to Rochelle sewer system) entered into as of the ____ day of ____, 20__, by and between the Village of Hillcrest, an Illinois municipal corporation with offices at _____, (hereinafter referred to as "Village"), and the City of Rochelle, an Illinois municipal corporation, with offices at 420 North 6th Street, Rochelle, Illinois 61068, Rochelle, Ogle County, Illinois (hereinafter referred to as "Owner/Developer").

WITNESSETH

THAT WHEREAS, the Illinois Compiled Statutes, 65 ILCS 5/9-5-1, authorize the use of recapture agreements for the reimbursement of costs of improvements to real estate which benefit more than one property; and

WHEREAS, Owner/Developer is constructing an Interceptor Sewer along the west side of Kyte River, a portion of which may be located within the corporate limits of Hillcrest, on property legally described on **Exhibit A** attached hereto and incorporated herein by reference (the "Subject Property"); and

WHEREAS, the development of the Subject Property is subject to the terms of an agreement between the parties dated _____, 20__, entitled "An Agreement for Wastewater Conveyance and Treatment between the City of Rochelle, Illinois and the Village of Hillcrest, Illinois", which requires the installation of certain improvements as a condition of either acceptance of a preliminary plat or final plat or the issuance of a building permit, and which further requires the dedication of said improvements to the public; and

WHEREAS, in developing the Subject Property, the Owner/Developer may be required to pay all or a portion of the cost and expense to design, construct and install certain sewer facilities described as follows: interceptor sewer along the west side of Kyte River, a portion of which may be within the corporate limits of Hillcrest (said improvements being collectively referred to herein as the “Subject Improvements”); and

WHEREAS, the design, construction and installation of the Subject Improvements will benefit certain other properties legally described in **Exhibit B** attached hereto and incorporated herein by reference (said properties being collectively referred to herein as “Benefiting Properties” and individually as a “Benefiting Property”); and

WHEREAS, the general location of the Subject Property and the Benefiting Properties is depicted on the map attached hereto as **Exhibit C** and incorporated herein by reference; and

WHEREAS, Owner/Developer has agreed that it may be required to pay the total cost of the Subject Improvements, provided that the owners of the Benefiting Properties reimburse Owner/Developer in accordance with the terms of this Agreement; and

WHEREAS, the Village has determined that the Owner/Developer’s estimate of the costs of the Subject Improvements, as specified on **Exhibit D** is reasonable, and such estimated costs have been fairly and reasonably apportioned between the Owner/Developer and the owners of the Benefiting Properties, as specified on **Exhibit D** attached hereto and incorporated herein by reference; and

WHEREAS, the parties agree that the Benefiting Properties should pay reimbursement (hereinafter “Recapture Payments”) for the Subject Improvements on the

basis of the actual costs incurred by Owner/Developer, which actual costs shall include Developer's reasonable engineering expenses;

NOW, THEREFORE, in consideration of the mutual promises herein contained together with all other agreements and obligations undertaken by the Owner/ Developer with the Village, the parties hereby agree as follows:

1. The foregoing recitals are substantive and by this reference are incorporated in the body of this Agreement and made a part hereof.
2. As soon as practicable after the recordation of this Agreement, Owner/Developer shall provide to Village a summary of the actual costs incurred by Owner/Developer for engineering and construction of the Subject Improvements, with such supporting documentation as may be requested by Village.
3. The parties agree that the Village shall take all reasonable steps to collect from the owners of the Benefiting Properties that portion of the actual costs incurred by Owner/Developer for engineering and construction of the Subject Improvements which is apportioned to the Benefiting Properties as shown on **Exhibit D** (hereinafter referred to as the "Recapture Amount"). The Recapture Amount may vary from the estimate shown on **Exhibit D**, if the actual costs vary from the estimated costs. The Village shall promptly remit to Owner/Developer all Recapture Payments (in amounts equal to the Recapture Amount) received from the owners of the Benefiting Properties.
4. The Village shall become obligated to collect, and the owners of the Benefiting Properties shall become obligated to pay, the required Recapture Amount when the Benefiting Properties individually make use of or benefit from the Subject Improvements, as determined by the Village in the reasonable exercise of its discretion.

5. The Village may, and will use its best efforts to, condition the annexation, subdivision and issuance of any building, occupancy, connection, or access permits upon payment by the owners of the Benefiting Properties of an appropriate share of the Recapture Amount under this Agreement.

6. Owner/Developer shall be entitled to the payment from the Benefiting Property owners and developers from the funds reimbursed to the Village. The Village's obligation to deliver the Recapture Amount or to make any Recapture Payment collected pursuant to this Agreement, constitutes a limited obligation of the Village, payable solely from the amounts received by the Village from the owners of the Benefiting Properties as Recapture Amount(s). Said obligation does not now and shall never constitute a general indebtedness of the Village within the meaning of any State of Illinois constitutional or statutory provision, or give rise to any pecuniary liability of the Village. Nothing contained herein, however, shall be deemed to exonerate or exculpate the Village from liability in the event of willful or intentional failure to perform the duties assumed by it hereunder as to collection of the Applicable Recapture Amount(s) or payment of the Recapture Payment(s).

7. The Recapture Amounts shall bear interest at ___ percent (___%) per annum, from and after the date of acceptance of the Subject Improvements by the Village. The interest amount shall be adjusted after the first two (2) years based on the increase or decrease in the U.S. Government's Consumer Price Index.

8. The Recapture Amount shall include, to the extent not prohibited by law, any and all costs and reasonable attorney's fees of the Village reimbursed by

Owner/Developer in connection with the acquisition of any easements reasonably necessary to construct the Subject Improvements.

9. The obligations imposed upon the Benefiting Properties under this Agreement shall be a covenant running with the land and shall constitute encumbrances against the land so as to bind the owners and any successor owners of record of the Benefiting Property.

10. The Village agrees to approve this Agreement by ordinance, and this Agreement shall become effective upon both execution by the parties and recording of this Agreement and said ordinance with the Recorder of Ogle County, Illinois, as provided by law. Village shall record this Agreement, with the costs of recordation to be borne by Owner/Developer.

11. The failure or omission of the Village to require payment of any Applicable Recapture Amount(s) by a Benefiting Property Owner to the Village in accordance with this Agreement shall not relieve such Benefiting Property Owner of the obligation to pay the Applicable Recapture Amount(s), and the Village agrees that Owner/Developer shall have the right to enforce such obligation directly against such Benefiting Property Owner in any court of competent jurisdiction. In any such proceeding Owner/Developer shall also be entitled to recover its reasonable attorneys' fees and costs from such Benefiting Property Owner to the extent not prohibited by law.

12. Owner/Developer has had the benefit of consultation with its own attorney in connection with the validity, enforceability and construction of this Agreement, and acknowledges that the Village has made no representations or warranties in that regard. In the event of any litigation concerning the validity, enforceability or construction of this

Agreement, Owner/Developer shall indemnify and hold harmless the Village from and against any and all costs (including without limitation attorney's fees, court costs and expenses) incurred by the Village, and shall indemnify and hold harmless the Village from any liabilities, judgments or settlement payments in connection therewith.

IN WITNESS WHEREOF, the parties to this Agreement by their signatures acknowledge that they have read and understand this Agreement and intend to be bound by its terms.

VILLAGE OF HILLCREST, an Illinois
municipal corporation

ATTEST:

By: _____
Village President

By: _____
Village Clerk

CITY OF ROCHELLE,

an _____

By: _____
Its: _____

STATE OF ILLINOIS)
)
COUNTY OF OGLE) SS.

The foregoing instrument was acknowledged before me by Ken Alberts, City Manager, and Bruce McKinney, City Clerk, this _____ day of _____, 20__.

NOTARY PUBLIC

STATE OF _____)
)
COUNTY OF _____) SS.

The foregoing instrument was acknowledged before me by _____, the _____ of the Village of Hillcrest, this _____ day of _____, 20__.

NOTARY PUBLIC

EXHIBIT I

Ordinance Governing the Requirement of School Impact Fees
Article V, Secs. 86-231 et seq., of the Rochelle Municipal Code

- (2) Proposed contour of developed area with spot elevations at the corners of each lot and building first floor elevation;
- (3) Drainage patterns of each lot with outlet for all surface water;
- (4) Finish grade of lot (at foundation) shall not exceed 18 inches above the curb, not less than 12 inches above the top of the curb;
- (5) Storm sewer system must be designed to properly handle all runoff. The subdivider's engineer must submit calculations;
- (6) Retention and/or detention requirements. Overflow, outfall, allowable discharge control and bottom treatment must be included with the plans.

(Code 1996, § 16.44.060)

Sec. 86-207. Landscaping.

A landscaping plan shall be delivered on the same date and be on the same review schedule as the engineering plans.

(Code 1996, § 16.44.070)

Sec. 86-208. Lands for parks and schools.

The planning and zoning commission may make recommendations to the city council concerning criteria for lands to be provided for parks and schools.

(Code 1996, § 16.44.080; Ord. No. 08-3676, § 2 (Exh. B), 5-12-2008)

~~Secs. 86-209 - 86-230. Reserved.~~

ARTICLE V. DEDICATION OF SCHOOL SITES AND PARK LANDS; PAYMENT OF FEES IN LIEU THEREOF

Sec. 86-231. Final plat approval.

As a condition of approval of a final plat of subdivision, or of a final plat of a planned unit development, each subdivider or developer shall be required to dedicate land for school sites and park and recreation purposes to serve the immediate and future needs of the residents of the development, a cash contribution in lieu of actual

land dedication, or a combination of both, at the option of the city with advice from the Community Consolidated School District 231 ("elementary school district"), or the township High School District 212 ("high school district"), or the King's Consolidated School District 144 (King's School district) or the Flagg-Rochelle Community Park District ("park district"), or all together as appropriate (the elementary school district, the high school district, the King's School district, and the park district being collectively referred to herein as "the benefiting districts" and individually as the "benefiting district"), in accordance with this article.

(Ord. No. 04-3263, § 16.50.010, 12-27-2004; Ord. No. 05-3341, 8-8-2005)

Sec. 86-232. Criteria for requiring school site dedication.

(a) *Student to land ratio.*

- (1) The ultimate number of students to be generated by a subdivision or planned unit development shall bear directly upon the amount of land required to be dedicated for school sites. The land dedication requirement for school sites shall be calculated as follows:

Estimated number of stu- dents per school classifi- cation	×	Minimum number if acres per school classifi- cation	=	School acreage required
Maximum number of students per school classification				

- (2) The term "estimated number of students per school classification" shall mean the number of students for each school classification and type of unit as shown in the table included in section 86-241. For purposes of the calculation in subsection (a)(1) of this section, it shall be assumed that each single-family detached dwelling unit will have three bedrooms, and that each single-family attached dwelling unit and each apartment will have two bedrooms.
- (3) The terms "minimum number of acres per school classification" and "maximum num-

ber of students per school classification" shall be determined in accordance with the table included in subsection (b) of this section.

ing unit shown on the table included in section 86-241, for each type of unit, by the estimated number of such unit types

- (4) Cash in lieu of land contributions is governed by section 86-237.

(b) *School classification and site size.* Classifications and size of school sites within the city shall be determined in accordance with the following criteria.

<i>Classification by Grade Group</i>	<i>Maximum Number of Students for Each Such School Classification</i>	<i>Minimum Acres of Land per Student Population</i>
Elementary, grades K—5	400	12
Middle school, grades 6—8 (served by elementary school district)	600	30
High school, grades 9—12	1,000	50

(Ord. No. 04-3263, § 16.50.020, 12-27-2004)

Sec. 86-233. Criteria for requiring park and recreation land dedication.

(a) *Requirement and population ratio.*

- (1) The ultimate density of a proposed development bears directly upon the amount of land required for dedication for park and recreation sites. The land dedication requirement for park and recreation sites shall be calculated as follows:

$$\begin{array}{r}
 \text{Sum of popu-} \quad \times \quad \text{Eight acres} \\
 \text{lations for all} \\
 \text{dwelling units} \\
 \hline
 \text{1,000 population}
 \end{array}
 = \text{Park acreage required}$$

- (2) The term "sum of populations for all dwelling units" shall be determined by multiplying the estimated population per dwell-

in the development, and then totaling the figures for each unit type. For purposes of the calculation in subsection (a)(1) of this section, it shall be assumed that each single-family detached dwelling unit will have three bedrooms, and that each single-family attached dwelling unit and each apartment will have two bedrooms.

- (3) The ratio of eight acres per 1,000 calculation, as used in the calculation in subsection (a)(1) of this section, was approved by the park district board of the park district on April 26, 2004. The breakdown of the eight acres per 1,000 calculation of three acres for play lot and neighborhood parks ("neighborhood type") and five acres for community-type parks and park lands are set out in the Flagg-Rochelle Community Park District Master Plan 2002—2007.
- (4) Cash in lieu of land contributions is governed by section 86-237.

(b) *Credit for private open spaces and recreation areas.* When subdividers or developers provide their own open space for recreation areas and facilities, it has the effect of reducing the demand for local public recreational services. Depending on the size of the development, a portion of the park and recreation area in subdivisions or planned unit developments may, at the option of the city council, be provided in the form of private open space in lieu of dedicated public open space. The extent of the same shall be determined by the city council, based upon the needs of the projected residents and in conformance to the total park and recreation land for the general area. In general, a substitution of private open space for dedicated parks will imply a substantially higher degree of improvement and the installation of recreational facilities, including equipment by the developer as part of the developer's obligation. Detailed plans of such areas, including specifications of facilities to be installed, must be approved by the city, and before any credit is given for private recreation areas, the subdivider or developer must guarantee, by the execution of the appropriate legal documents, that these private recreation areas will be permanently maintained for such use. Private swimming clubs are included in this provision. When an adjustment for

private recreation areas is warranted, it will be necessary to compute the total park land dedication that would have been required from the subdivision or planned unit development and then subtract the credit to be given.
(Ord. No. 04-3263, § 16.50.030, 12-27-2004)

Sec. 86-234. Population density.

The estimated population generated by a development shall be determined by application of the population density table as set out in section 86-241. This population density table is generally indicative of current and short-range projected trends in family size for new construction. The populations listed in said table shall be used for all calculations required by this division unless a written objection is filed by the subdivider or developer with the city clerk and the senior administrator of each benefiting district prior to approval of the final plat. If a written objection is filed, the subdivider or developer shall file a demographic study showing the estimated additional student population to be generated from the subdivision or planned unit development. The final determination of the population density to be used in the calculations shall be made by the city council based upon the demographic information submitted by the subdivider or developer and upon such other demographic information as may be submitted by the benefiting districts or others.
(Ord. No. 04-3263, § 16.50.040, 12-27-2004)

Sec. 86-235. Location of sites.

Sites dedicated pursuant to this division shall be located in accordance with plans and standards adopted by the city with advice from the benefiting district.

- (1) *School sites.* School sites dedicated pursuant to this division shall be located in accordance with plans and standards adopted by the city with advice from the appropriate school district.
- (2) *Park sites.* Unless otherwise waived, lands to be dedicated to any applicable park district shall conform to the park district master plan, as then in effect and adopted by the applicable park district, as a guideline in determining the general location of

park sites. Generally, neighborhood park sites should be accessible to the public and serve a population within a one-half to one mile radius from the site, depending on the classification of the park. Park sites should be located in conjunction with and adjacent to school sites whenever possible and desirable. Community parks are intended to serve a broader area and should offer a greater variety of facilities and activities.

(Ord. No. 04-3263, § 16.50.050, 12-27-2004)

Sec. 86-236. Conveyance of site.

Any lands to be conveyed as a site pursuant to this article shall be conveyed to the appropriate benefiting district within 30 days of the recording of the final plat. The conveyance shall be in accordance with the following criteria:

- (1) *Title to site.* All sites shall be conveyed to the appropriate benefiting district either by warranty or trustee's deed. The subdivider or developer shall be responsible for conveying good, merchantable title, free of encumbrances, unless the encumbrances are waived by the benefiting district. The conveyance shall be accompanied by a commitment for title insurance issued by a reputable title insurance company licensed to do business in the state. The subdivider or developer shall be responsible for the payment of all real estate taxes to the date of conveyance.
- (2) *Topography, grading and general suitability.* The slope, topography and geology of the dedicated site, as well as its immediate surroundings, must be suitable for its intended purpose. The site must be free of environmental and archaeological concerns.
- (3) *Site improvements.* All sites shall be dedicated in a condition ready for full service of electrical, water, sewer, drainage and streets as applicable to the location of the site, or acceptable provision made therefor.
- (4) *Sale of land.* When, in the opinion of the benefiting district, any parcel of land conveyed pursuant to this article becomes unnecessary, unsuitable, or inconvenient for the uses of the benefiting district, such parcel may be sold as provided by applicable law. The proceeds of such sale shall be used in a manner consistent with the purposes of this division.
- (5) *Park area.* The minimum area of any parcel of land to be conveyed pursuant to this article for a park site or for recreational purposes shall be one acre.
- (6) *Stormwater and surface water detention and retention areas.* Dedications of stormwater and surface water detention and retention areas will be accepted at the discretion of the applicable park district and will not count towards the total land area to be conveyed.
- (7) *Wetlands and other natural areas.* Dedication of wetland areas and other natural areas will be accepted at the discretion of the applicable park district, and acceptance by the applicable park district of such areas shall not count towards the total land area to be conveyed.
- (8) *Dimensions of sites.* Generally, any parcel of land to be dedicated and conveyed to an applicable park district for a park site should be rectangular in shape with dimensions proportionate to the ratio of depth of three to a width of two. These criteria shall not apply to sites contemplated for extraordinary types of facilities such as, but not limited to, trails and shoreline frontage.
- (9) *Frontage.* Generally, any parcel of land to be dedicated and conveyed to an applicable park district shall have 30 feet of street frontage per acre with a minimum of 150 feet of street frontage.
- (10) *Seeding of sites.* Any parcel of land to be dedicated and conveyed to an applicable park district shall be seeded by the developer in its entirety with a blend approved by the applicable park district. Seeding shall include placement, watering, as necessary, and mowing until such time as a

full stand of turf is established and accepted by the applicable park district, but not less than one full growing season.

- (11) *Building permit.* Building permits shall not be issued to the developer until the required conveyances in accordance with this article have been made.

(Ord. No. 04-3263, § 16.50.060, 12-27-2004)

Sec. 86-237. Criteria for requiring a cash contribution in lieu of school and park sites.

When the development is small and the resulting site is too small to be practical or when the available land is inappropriate for a park or school site, as recommended by the park or school district, the city shall require the subdivider or developer to pay cash contributions in lieu of the land dedication required. The term "fair market value (FMV) per acre" shall mean the amount determined pursuant to subsection (3) of this section.

- (1) *School's cash contribution in lieu of land.*

- a. The cash contribution for school sites shall be calculated as follows:

$$\begin{array}{rcl} \text{School acreage} & \times & \text{FMV per acre} \\ \text{required} & & \\ & = & \text{Cash contribu-} \\ & & \text{tion required} \\ & & \text{(schools)} \end{array}$$

- b. The term "school acreage required" shall mean the acreage determined pursuant to section 86-232(a).

- (2) *Park's cash contribution in lieu of land.*

- a. The cash contribution for park sites shall be calculated as follows:

$$\begin{array}{rcl} \text{((Park acreage} & & \text{((Park acreage} & & \text{Cash contribu-} \\ \text{required:} & & \text{required: com-} & & \text{tion required} \\ \text{neighborhood} & + & \text{munity type} & = & \text{(parks)} \\ \text{type) } \times \text{ (FMV} & & \text{and park lands)} & & \\ \text{Per acre))} & & \times \text{ (FMV per} & & \\ & & \text{acre))} & & \end{array}$$

- b. The term "park acreage required" shall mean the acreage determined pursuant to section 86-233(a).

- (3) *Fair market value.* The cash contribution in lieu of land shall be based on the fair market value of improved, subdivided land,

as platted within the development's final plat, that otherwise would have been dedicated as benefiting district sites. The city, based upon its investigation, has determined the fair market value of any particular parcel, for purposes of school sites in this article, to be \$84,000.00 per acre. The city has determined the fair market value of any particular parcel, for purposes of park lands and sites in this article, to be \$75,000.00 per acre for neighborhood-type park sites and \$18,750.00 per acre for community parks and park lands. The foregoing fair market value shall be used in the determination of cash contributions unless the subdivider, developer, or any other subdivider or developer or objecting party shall submit an appraisal showing the fair market value of such improved land in the area of the development. Final determination of the fair market value per acre of such improved land shall be made by the city council based upon such information submitted by the subdivider or developer, information from other sources which may be submitted to the city council by affected parties, and information, reports and analyses provided to the city council by its own staff and consultants.

- (4) *Time and manner of payment.* The cash contribution required in this section shall be paid at the time of applying for a building permit for each housing unit. No building permit shall be issued until said payment has been made. Payments hereunder shall be payable to the city and shall be held in trust until semiannual (January and July) disbursements are made to the benefiting districts.

- (5) *Criteria for requiring dedication and a fee.* There will be situations in subdivisions or planned unit developments when a combination of land dedication and a contribution in lieu of land are both necessary. These occasions will arise when:

- a. Only a portion of the land to be developed is proposed as the location for a benefiting district site. That

portion of the land within the subdivision falling within the benefiting district location shall be dedicated as a site as aforesaid, and a cash contribution in lieu thereof shall be required for any additional land that would have to be dedicated.

- b. A major part of the benefiting district site has already been acquired and only a small portion of land is needed from the development to complete the site. The remaining portions shall be required by dedication, and a cash contribution in lieu thereof shall be required.

(Ord. No. 04-3263, § 16.50.070, 12-27-2004)

Sec. 86-238. Reservation of additional land.

Where the plans of the city call for a larger benefiting district site in a particular proposed subdivision or planned unit development than the developer is required to dedicate, the land needed beyond the developer's contribution shall, if so determined by the city council, be reserved for subsequent purchase by the appropriate benefiting district, provided that such acquisition is made within one year from the date of approval of the final plat.

(Ord. No. 04-3263, § 16.50.080, 12-27-2004)

Sec. 86-239. Combining with adjoining developments.

Where the subdivision or planned unit development is less than 40 acres, a benefiting district site which is to be dedicated should, where possible, be combined with dedications from adjoining developments in order to produce usable benefiting district sites without hardship on a particular developer.

(Ord. No. 04-3263, § 16.50.090, 12-27-2004)

Sec. 86-240. Intergovernmental agreements/indemnity.

Prior to receiving a dedication of land or a cash contribution in lieu of land pursuant to section 86-231, each benefiting district shall execute intergovernmental agreements with the city in which the benefiting district agrees to indemnify and hold the city harmless, including all associated costs and reasonable attorney fees incident to any suits filed in which the validity or application of any section of this article is challenged. The selection of counsel to defend any such action shall be by the affected benefiting district.

(Ord. No. 04-3263, § 16.50.100, 12-27-2004)

Sec. 86-241. Table of estimated ultimate population per dwelling unit.

The following table is generally indicative of current and short range projected trends in family size for new construction and shall be used in calculating the required land or cash in lieu of land contribution.

Table of Estimated Ultimate Population per Dwelling Unit Children Per Unit

Type of Unit	Pre-school 0-4 Years	Grades K-5 5-11 Years	Junior High Grades 6-8 12-13 Years	Total Grades K-8 5-13 Years	High School Grades 9-12 14-17 Years	Adults 18+ Years	Total per Dwelling Unit
Detached Single-Family							
2 Bedroom	0.113	0.136	0.048	0.184	0.020	1.700	2.017
3 Bedroom	0.292	0.369	0.173	0.542	0.184	1.881	2.899
4 Bedroom	0.418	0.530	0.298	0.828	0.360	2.158	3.764
5 Bedroom	0.238	0.345	0.248	0.593	0.300	2.594	3.770

<i>Type of Unit</i>	<i>Pre-school 0—4 Years</i>	<i>Grades K—5 5-11 Years</i>	<i>Junior High Grades 6-8 12-13 Years</i>	<i>Total Grades K-8 5-13 Years</i>	<i>High School Grades 9-12 14-17 Years</i>	<i>Adults 18+ Years</i>	<i>Total per Dwelling Unit</i>
Attached Single-Family							
1 Bedroom	0.000	0.000	0.000	0.000	0.000	1.193	1.193
2 Bedroom	0.064	0.088	0.048	0.136	0.038	1.752	1.990
3 Bedroom	0.212	0.234	0.058	0.292	0.059	1.829	2.392
4 Bedroom	0.323	0.322	0.154	0.476	0.173	2.173	3.145
Apartments							
Efficiency	0.000	0.000	0.000	0.000	0.000	1.294	1.294
1 Bedroom	0.000	0.002	0.001	0.003	0.001	1.754	1.758
2 Bedroom	0.047	0.086	0.042	0.128	0.046	1.693	1.914
3 Bedroom	0.052	0.234	0.123	0.357	0.118	2.526	3.053

Note: There are only three significant categories provided in this chart. Because of similarity of yields of all type of attached single-family dwelling units, only one category is provided. The same is true with apartments; thus, only one category. Because of the relatively short history of some newer types of detached and attached single-family units, individual evaluations may be necessary. Copyright 1996, Ehlers & Associates (formerly Associate Municipal Consultants, Inc.) 630/355-6100, Naperville, IL (Ord. No. 04-3263, § 16.50.110, 12-27-2004)

EXHIBIT J

Resolution Governing the Requirement of Transition Fees
Resolution R06-18 of the City of Rochelle

CITY OF ROCHELLE



RESOLUTION R06-18

**RESOLUTION INCREASING LAG TIME FEES TO BE
INCLUDED IN RESIDENTIAL SUBDIVISION
ANNEXATION AGREEMENTS**

PASSED BY THE

CITY COUNCIL

OF THE

CITY OF ROCHELLE

THIS 9TH

DAY OF SEPTEMBER, 2006

WITH 7 YEAS AND 0 NAYS

ABSENT OR NOT VOTING: 0.

**Published in pamphlet form by authority of the City Council of the City
of Rochelle, Ogle County, Illinois, this 12TH of September, 2006.**

CITY OF ROCHELLE

STATE OF ILLINOIS)
COUNTY OF OGLE)
COUNTY OF LEE)

CERTIFICATE

I, the undersigned, hereby certify that I am the duly qualified and acting City Clerk of the City of Rochelle, Counties of Ogle & Lee and State of Illinois, and as such City Clerk, I am the keeper of the journals, records and files of the City of Rochelle.

I do hereby certify that the attached Resolution, Number R06-18 presented to the City Council on the 11th day of September, 2006 and as signed by the Mayor of the City of Rochelle on the 12th day of September, 2006 and attested by the City Clerk, all as appears from the official records of the City in my Care and custody.

IN WITNESS WHEREOF, I have hereunto affixed my official signature and the corporate seal of the City of Rochelle, Illinois this ____ day of _____ 20__.

Bruce W. McKinney, CMC
City Clerk, City of Rochelle

Resolution Increasing Lag Time Fees to be included in Residential Subdivision Annexation Agreements.

RESOLUTION NO. R06-18
Date Passed: September 11, 2004

**INCREASING LAG TIME FEES TO BE INCLUDED IN RESIDENTIAL
SUBDIVISION ANNEXATION AGREEMENTS**

WHEREAS, the City of Rochelle is a body politic and corporate, organized and existing pursuant to the Illinois Municipal Code, 65 ILCS 5/1-1-1, et. seq.; and

WHEREAS, at a regular City Council meeting on December 27, 2004, the City Council directed City staff to include in every annexation agreement for a residential subdivision a provision requiring the developer to pay a "lag time" or "transition" fee of \$1,250 per dwelling unit in addition to land/cash fees provided by the Rochelle Municipal Code; and

WHEREAS, in recent negotiations relating to the Kings Crossing residential subdivision, the lag time fee was set at \$3,500.00 per dwelling unit, with a provision that if the City should thereafter negotiate a lower lag time fee with any other residential developer, the lower lag time fee would also apply to the Kings Crossing subdivision; and

WHEREAS, the City Council has determined that a lag time fee of at least \$3,500.00 per dwelling unit should be negotiated in future annexation agreements for residential subdivisions for the benefit of the Rochelle Township High School District #212, Rochelle Community Consolidated School District #213, and Kings Consolidated School District # 144;

NOW, THEREFORE BE IT RESOLVED by the Mayor and Council of the City of Rochelle that the City shall include a lag time fee of at least \$3,500.00 per dwelling unit in annexation agreements for residential subdivisions hereafter negotiated by the City, to be paid as a condition of issuance of a building permit on a unit-by-unit basis.

PASSED AND APPROVED this 11th day of September, 2006 .

ATTEST:→



City Clerk



Mayor

EXHIBIT K

Boundary Agreement

**JURISDICTIONAL BOUNDARY LINE AND
INTERGOVERNMENTAL COOPERATION AGREEMENT**

Village of Hillcrest and City of Rochelle, Illinois

THIS AGREEMENT, made and entered into this _____ day of _____, 20___,
by and between the VILLAGE OF HILLCREST, Ogle County, Illinois (“Hillcrest”) and the
CITY OF ROCHELLE, Ogle County and Lee County, Illinois (“Rochelle”),

WITNESSETH:

THAT WHEREAS, Hillcrest and Rochelle are “units of local government” as defined
by Article VII, Section 1, of the Constitution of the State of Illinois of 1970; and

WHEREAS, units of local government are enabled by Article VII, Section 10 of the
Constitution of the State of Illinois of 1970 to enter into agreements among themselves to obtain
or share services and to exercise, combine or transfer any power or function in any manner not
prohibited by law or ordinance; and

WHEREAS, the Illinois Intergovernmental Cooperation Act, (5 ILCS 220/1 et seq.),
authorizes municipalities to exercise jointly with any public agency of the State, including other
units of local government, any power, privilege, or authority which may be exercised by a unit of
local government individually, and to enter into contracts for the performance of governmental
services, activities and undertakings; and

WHEREAS, 65 ILCS 5/11-12-9 provides “[t]hat if unincorporated territory is within one and one-half miles of the boundaries of two or more corporate authorities that have adopted official plans, the corporate authorities involved may agree upon a line which shall mark the boundaries of the jurisdiction of each of the corporate authorities who have adopted such agreements”; and

WHEREAS, certain unincorporated territory lies within one and one-half miles of the boundaries of Hillcrest and Rochelle; and,

WHEREAS, Hillcrest and Rochelle have adopted official comprehensive plans for making recommendations with respect to the development of that unincorporated territory, copies of the pertinent portions of which are attached hereto as **Exhibit A** and **Exhibit B**; and,

WHEREAS, Hillcrest and Rochelle recognize the need and desirability to provide for logical future municipal boundaries and areas of municipal authority between their respective corporate limits in order to plan effectively for growth management and potential development between their communities, and to memorialize certain agreements between them related to cooperation with regard to significant infrastructure developments within the unincorporated territory and with regard to maintaining reasonably comparable impact fees and similar development costs in order to foster fair competition; and

WHEREAS, Hillcrest and Rochelle, after due investigation and consideration, have determined to enter into an agreement providing for the establishment of a boundary for their respective jurisdictions in the unincorporated territory lying between and near their boundaries; and

WHEREAS, Hillcrest and Rochelle have determined that the observance of the boundary line in future annexations by either municipality will serve the best interests of both communities; and

WHEREAS, in arriving at this Agreement, Hillcrest and Rochelle have given consideration to the natural flow of stormwater drainage and, when practical, have included all of a single tract of land having common ownership within the jurisdiction of only one municipality; and,

WHEREAS, Hillcrest and Rochelle have authorized, by ordinance, the execution of this Agreement as an exercise of their intergovernmental cooperation authority under the Constitution of the State of Illinois, and the Intergovernmental Cooperation Act, and their authority to enter into jurisdictional boundary agreements pursuant to 65 ILCS 5/11-12-9.

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual promises hereinafter contained, the adequacy and sufficiency of which the parties hereto stipulate, Hillcrest and Rochelle agree as follows

Section 1. Incorporation of Recitals. The recitals set forth above are incorporated herein by reference as substantive provisions of this Agreement.

Section 2. Jurisdictional Boundary Line. The boundary line between Hillcrest and Rochelle for the purpose of establishing their respective jurisdictions for land use planning, official map purposes, zoning, subdivision control and annexation of unincorporated territory, and other municipal purposes, all as hereinafter provided, shall be as depicted upon the map attached hereto as **Exhibit C** and made a part hereof. As indicated on said Exhibit, the east/west boundary line between the municipalities shall be the presently-existing westerly corporate boundary line of Hillcrest from Scott Avenue on the south to a point one-half (1/2) mile south of

Bethel Road on the north. The north/south boundary line between the municipalities shall be Scott Avenue/ Twombly Road from the Kyte River on the west to Interstate 39 on the east. That portion of the unincorporated territory lying northerly or easterly of said boundary lines shall be within the Hillcrest jurisdictional area (“Hillcrest Jurisdictional Area”) as shown on **Exhibit C**. The Hillcrest Jurisdictional Area, together with all territory located within the corporate limits of Hillcrest from time to time, shall be within the Hillcrest territory (“Hillcrest Territory”). That portion of the unincorporated territory lying southerly or westerly of said boundary lines shall be within the Rochelle jurisdictional area (“Rochelle Jurisdictional Area”) as shown on **Exhibit C**. The Rochelle Jurisdictional Area, together with all territory located within the corporate limits of Rochelle from time to time, shall be within the Rochelle territory (“Rochelle Territory”).

In the event any portion of the Hillcrest Jurisdictional Area or the Rochelle Jurisdictional Area should hereafter be determined to be outside of the permissible scope of this Agreement under the applicable statutes, this agreement shall continue in force with respect to the remaining jurisdictional areas identified in this Agreement.

Section 3. Exercise of Authority. Hillcrest agrees that it shall not exercise or attempt to exercise or enforce any comprehensive plan jurisdiction, official map jurisdiction, zoning authority or subdivision control authority within the Rochelle Jurisdictional Area.

Rochelle agrees that it shall not exercise or attempt to exercise or enforce any comprehensive plan jurisdiction, official map jurisdiction, zoning authority or subdivision control authority within the Hillcrest Jurisdictional Area.

Section 4. Statutory Zoning Objections. This Agreement shall not be construed to limit or adversely affect the right of either municipality to file a statutory objection to proposed rezonings within one and one-half (1 ½) miles of its corporate limits.

Section 5. Annexation. Both Hillcrest and Rochelle acknowledge that it is not in their respective best interests to engage in disputes with respect to the annexation of territory. The boundary line established pursuant to this Agreement was carefully studied and considered with respect to those matters heretofore set out in the recitals to this Agreement. Therefore, each municipality agrees not to annex any territory which is located in the other municipality's Territory, as shown on **Exhibit C**.

Hillcrest and Rochelle also agree to take all reasonable and appropriate actions to oppose any involuntary or court-controlled annexation proceedings by property owners who propose to annex territory within either municipality's Territory in a manner inconsistent with this Agreement.

In addition, Hillcrest and Rochelle each hereby agree that each of them waives any right to challenge or otherwise contest the validity of any annexation the other municipality has effected, is effecting, or will effect in the future for territory located within such other municipality's Territory. Hillcrest and Rochelle further agree not to solicit or otherwise make any requests, formal or informal, to any third party to encourage the disconnection from the other municipality of land within the other municipality's Territory or to challenge the validity of the other municipality's past, current, or future annexations within such other municipality's Territory.

Section 6. General Implementation. The parties hereto agree to cooperate to the fullest extent possible, and take all steps reasonably practicable, to achieve any appropriate modification of the postal service boundary, the NIPC and Illinois EPA Facilities Planning Area, the local access telephone service area code, and the Emergency 911 telephone service area, to conform to the boundary defined under this Agreement.

Section 7. Recapture Agreements. Hillcrest and Rochelle agree that whenever an annexation agreement authorized under Section 11-15.1-1 of the Illinois Municipal Code (65 ILCS 5/11-15.1-1) requires the construction of any roadway, traffic signal, utility or other public improvement upon a common boundary line, and such improvement may be used for the benefit of property located in the other municipality, the other municipality shall, to the extent permitted by law, require the benefited property to reimburse the party who installed the public improvements a reasonable and pro-rata share of such public improvements in accordance with binding recapture agreements existing at the time of annexation.

Section 8. Binding Effect. This Agreement shall be binding upon and shall apply only to the legal relationship between Hillcrest and Rochelle. Nothing herein shall be used or construed to affect, support, bind or invalidate any claims of either Hillcrest and/or Rochelle insofar as such claims shall affect any person, firm or entity for which is not a party to this Agreement.

Section 9. Amendment. Neither Hillcrest nor Rochelle shall directly or indirectly seek any modification of this Agreement through court action and this Agreement shall remain in full force and effect until amended or changed in writing by the mutual agreement of both Hillcrest and Rochelle.

Section 10. Partial Invalidity. If any provisions of this Agreement shall be declared invalid for any reason, such invalidation shall not affect other provisions of this Agreement which can be given effect without the invalid provisions and to this end, the provisions of this Agreement are deemed to be severable.

Section 11. Notice and Service. Any Notice hereunder from either party hereto to the other party shall be in writing and shall be served by registered or certified mail, postage prepaid, return receipt requested addressed as follows:

To Hillcrest: Village of Hillcrest

Hillcrest, IL 61068
Att'n: Village President

To Rochelle: City of Rochelle
420 N. 6th Street
Rochelle, IL 61068
Att'n: City Manager

or to such persons or entities and at such address as either party may from time to time designate by notice to the other party. Notice shall be deemed received on the third business day following deposit in the U.S. Mail in accordance with this Section.

Section 13. Term. This Agreement shall be in full force and effect for a period of twenty (20) years from and after the date hereof. The term of this Agreement may be extended, renewed or revised at the end of this initial term or any extended term thereof by further agreement of Hillcrest and Rochelle.

Section 14. Illinois Law. This Agreement shall be construed in accordance with the laws of the State of Illinois.

Section 15. Execution of Agreement, Recordation. This Agreement shall not become effective until a copy thereof, certified as to adoption by the Village Clerk of Hillcrest and the City Clerk of Rochelle, has been filed in the Recorder's office of Ogle County. A copy of this Agreement shall be made available in the office of the municipal clerk of each party.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals on the date first above written.

VILLAGE OF HILLCREST, an Illinois municipal corporation,

By: _____
Village President

ATTEST:

Village Clerk

CITY OF ROCHELLE, an Illinois municipal corporation,

By: _____
City Manager

ATTEST:

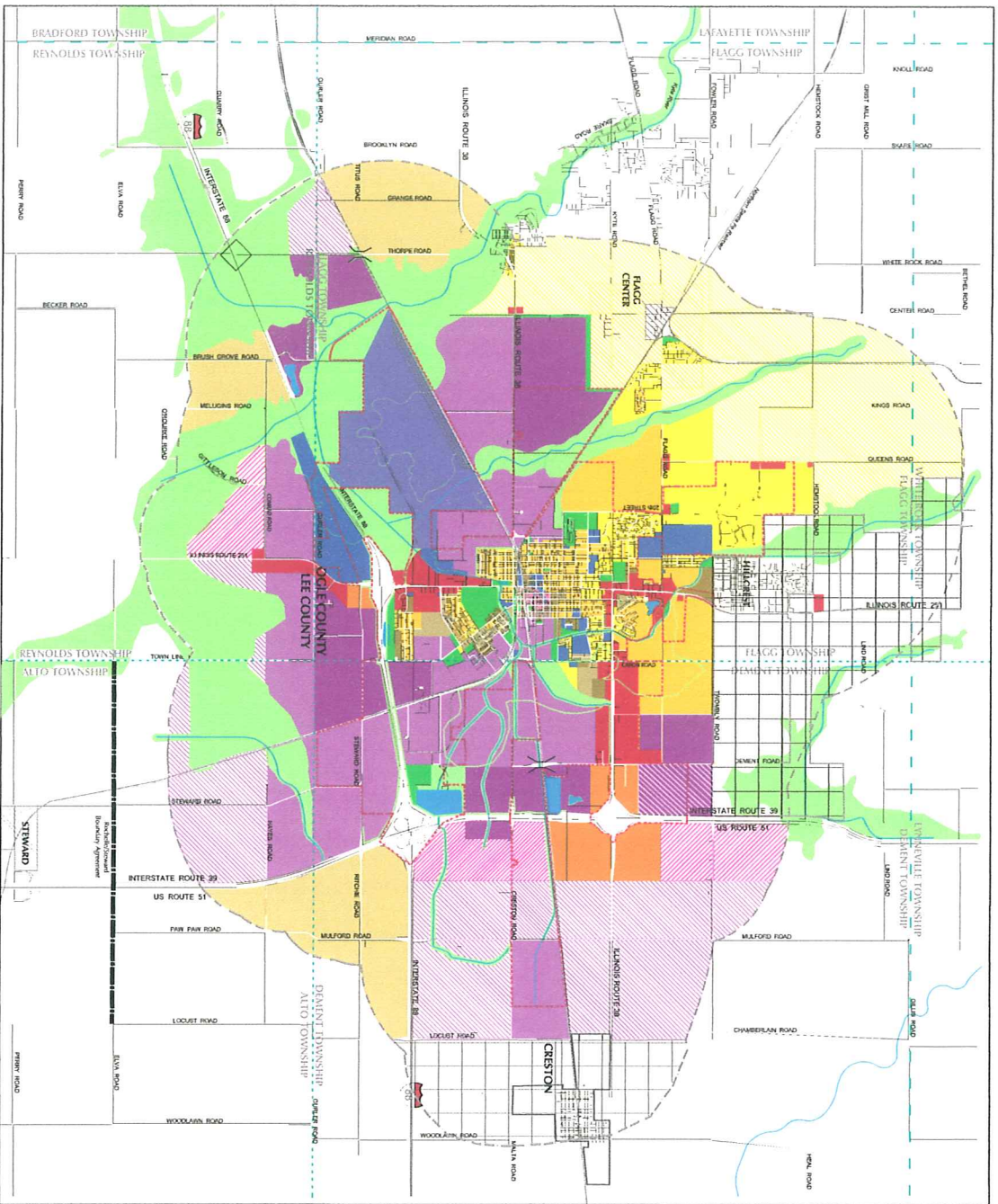
City Clerk

This Document Prepared by and Return to:

ALAN H. COOPER
Attorney at Law
233 East Route 38, Suite 202
P.O. Box 194
Rochelle, IL 61068
(815) 562-2677

EXHIBIT A

PERTINENT PORTIONS OF ROCHELLE COMPREHENSIVE PLAN



CITY OF ROCHELLE Future Land Use Plan

LAND USE

- AGRICULTURAL PRESERVATION
- ENVIRONMENTALLY SENSITIVE
- RECREATION/PUBLIC OPEN SPACE
- LOW DENSITY RESIDENTIAL
- LOW DENSITY RESIDENTIAL (FUTURE GROWTH AREA)
- MODERATE DENSITY RESIDENTIAL
- MODERATE DENSITY RESIDENTIAL (FUTURE GROWTH AREA)
- MEDIUM DENSITY MULTIFAMILY
- HIGH DENSITY MULTIFAMILY
- CBD COMMERCIAL
- GENERAL COMMERCIAL
- INTERCHANGE COMMERCIAL
- BUSINESS-RESEARCH PARALIGHT INDUSTRIAL
- BUSINESS-RESEARCH PARALIGHT INDUSTRIAL (FUTURE)
- TECHNOLOGY PARK
- INDUSTRIAL/WAREHOUSING (FUTURE GROWTH AREA)
- INDUSTRIAL/WAREHOUSING
- INTERMODAL FACILITY
- MUNICIPAL/INSTITUTIONAL

MISCELLANEOUS

- RIVERS/LAKES
- RAILROAD
- ROCHELLE MUNICIPAL BOUNDARY
- TOWNSHIP/COUNTY BOUNDARY LINE
- 1/2 MILE PLANNING AREA BOUNDARY
- PROPOSED INTERCHANGE
- EXISTING OVERPASS
- ROCHELLE/STEWART BOUNDARY AGREEMENT
- ADJACENT COMMUNITIES

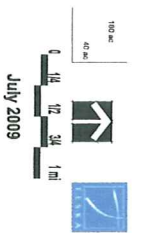
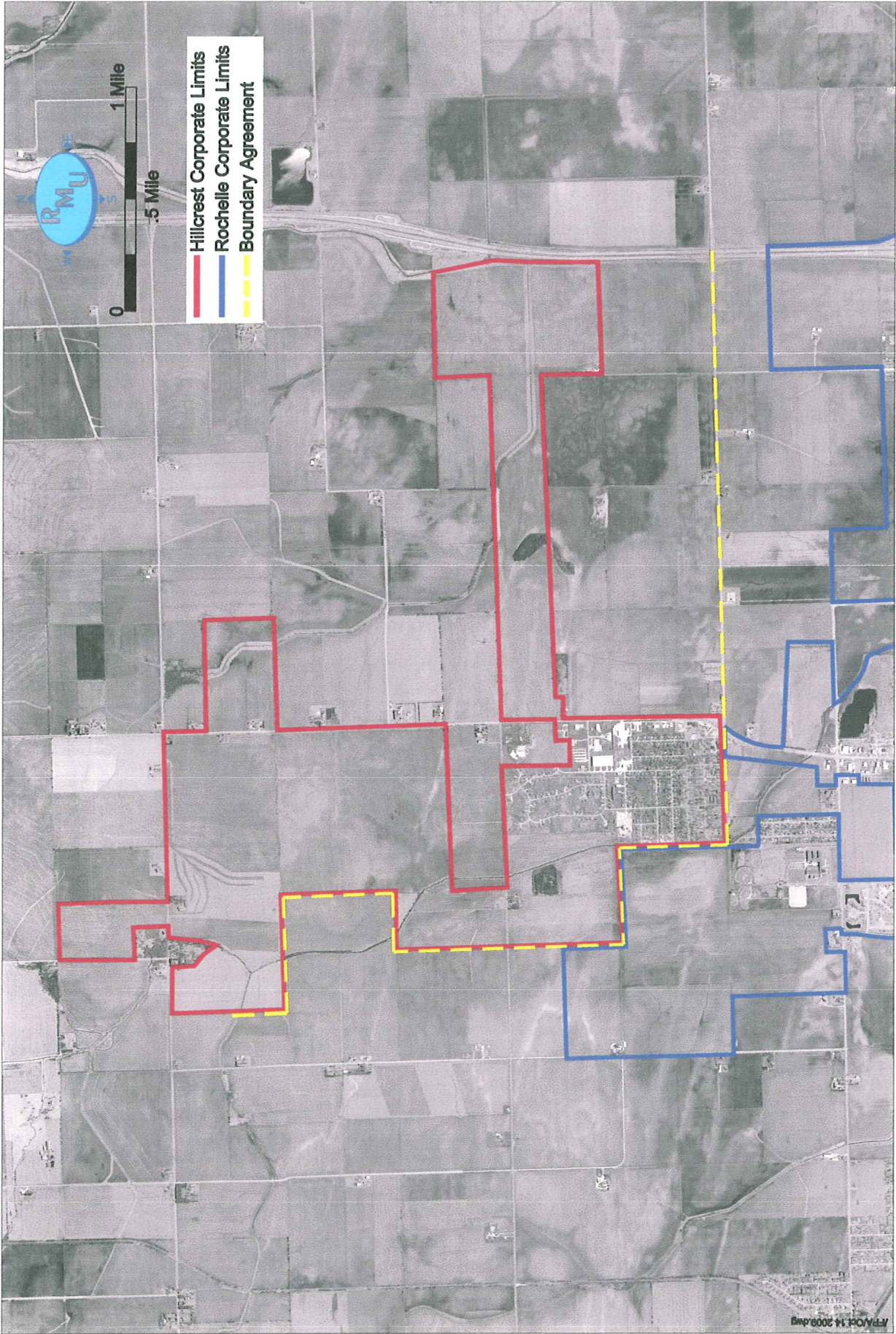


EXHIBIT B

PERTINENT PORTIONS OF HILLCREST COMPREHENSIVE PLAN

EXHIBIT C

MAP OF PROPOSED BOUNDARY LINE



- Hillcrest Corporate Limits
- Rochelle Corporate Limits
- Boundary Agreement

