

VILLAGE OF DUPO, ILLINOIS

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ORDINANCE NO. 21-27

AN ORDINANCE APPROVING AND AUTHORIZING THE EXECUTION OF AN  
INTERGOVERNMENTAL AGREEMENT BETWEEN THE VILLAGE OF DUPO, ILLINOIS AND  
SUGARLOAF TOWNSHIP

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ADOPTED BY THE  
VILLAGE BOARD OF TRUSTEES  
OF THE  
VILLAGE OF DUPO, ILLINOIS  
THIS 4<sup>th</sup> DAY OF OCTOBER 2021

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Published in pamphlet form by  
authority of the Village Board  
of Trustees of the Village of  
Dupo, St. Clair County, Illinois,  
this 4<sup>TH</sup> day of October 2021.

ORDINANCE NO. 21-27

**AN ORDINANCE APPROVING AND AUTHORIZING THE EXECUTION OF AN  
INTERGOVERNMENTAL AGREEMENT BETWEEN THE VILLAGE OF DUPO, ILLINOIS AND  
SUGARLOAF TOWNSHIP**

**WHEREAS**, the Village of Dupo, St. Clair County, Illinois is a duly created, organized and validly existing municipality of the State of Illinois under the 1970 Illinois Constitution and the laws of the State of Illinois, including particularly the Illinois Municipal Code, and all laws amendatory thereof and supplementary thereto; and

**WHEREAS**, a public meeting was held in the Village of Dupo, Illinois at the Dupo Village Hall, 107 N. Second Street, on October 4, 2021, at 7:00 pm, before the Village Board of Dupo and notice of said meeting was duly given; and

**WHEREAS**, both the Village of Dupo, Illinois ("Village") and Sugarloaf Township, Illinois ("Township") are authorized to enter into intergovernmental agreements pursuant to Article VII, § 10 of the Constitution of the State of Illinois and the provisions of the Intergovernmental Cooperation Act, 5 ILCS 220/1, *et seq.*; and

**WHEREAS**, the Village of Dupo currently provides wastewater treatment services to the Township; and

**WHEREAS**, the current agreement between the Village and Township for wastewater treatment services has expired, and both the Village and the Township desire to enter into a new agreement for such wastewater treatment services; and

**WHEREAS**, the Village has determined that it would be in the best interests of the Village to enter into an intergovernmental agreement in which the Village will provide wastewater treatment services to the Township for specified rates for a period commencing on November 1, 2021 and ending on December 31, 2023, and pursuant to those additional terms and conditions as set forth in the attached Intergovernmental Agreement labeled **Exhibit A**.

**NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE VILLAGE BOARD OF TRUSTEES OF THE VILLAGE OF DUPO, ILLINOIS:**

**Section 1: Recitals.** The aforementioned recitals are hereby adopted as findings by the Village Board and incorporated herein.

**Section 2: Authorization.** The Intergovernmental Agreement between the Village of Dupo, Illinois and Sugarloaf Township for wastewater treatment services attached hereto, and incorporated herein by referenced, as **Exhibit A**, shall be and is hereby approved by the Corporate Authorities of the Village of Dupo, Illinois, and the Mayor is hereby authorized and directed to execute, and the Village Clerk is hereby authorized to attest the signature on said agreement.

**Section 3: Severability of Provisions.** Each section, paragraph, sentence, clause and provision of this Ordinance is severable, and if any provision is held unconstitutional or invalid for any reason, such decision shall not affect the remainder of the Ordinance, nor any part thereof, other than that part affected by such decision.


**Section 4: Conflict.** All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed to the extent of such conflict.

**Section 5: Effective.** This Ordinance shall be in full force and effect from and after its passage, approval and publication in pamphlet form as provided by law.

**PASSED** this 4<sup>th</sup> day of October 2021 by the Village Mayor and the Village Board of Trustees of the Village of Dupu, St. Clair County, Illinois, and deposited and filed in the office of the Village Clerk in said Village on that date.

<u>Trustees</u>	<u>Aye</u>	<u>Nay</u>	<u>Absent</u>	<u>Abstain</u>
Joe Basinski	X	___	___	___
Ron Dell	X	___	___	___
Kerry Foster	X	___	___	___
Dawn Keys	X	___	___	___
Ken Phillips	X	___	___	___
Tammy Taylor	X	___	___	___

**APPROVED AND PASSED** by the Mayor of the Village of Dupu, Illinois this 4<sup>th</sup> day of October 2021.

  
\_\_\_\_\_  
Jerry Wilson, Mayor  
Village of Dupu, Illinois

ATTEST:

  
\_\_\_\_\_  
MARK NADLER, VILLAGE CLERK

{SEAL}

STATE OF ILLINOIS     )  
                                      ) SS  
COUNTY OF ST. CLAIR )

**CERTIFICATE OF PUBLICATION**

I, Mark Nadler, certify that I am the duly elected and acting Village Clerk of the Village of Dupu, Illinois.

I further certify that on the 4<sup>th</sup> day of October 2021, the Corporate Authorities of the Village of Dupu, Illinois, passed and approved Ordinance No. 21-27 entitled:

**AN ORDINANCE APPROVING AND AUTHORIZING THE EXECUTION OF AN  
INTERGOVERNMENTAL AGREEMENT BETWEEN THE VILLAGE OF DUPO, ILLINOIS AND  
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which provided by its terms that it should be published in pamphlet form.

The pamphlet form of Ordinance No. 21-27, including the ordinance and a cover sheet thereof, was prepared, and a copy of such ordinance was posted in the Dupu Village Hall, commencing on October 4, 2021, and continuing for at least ten (10) days thereafter. Copies of such ordinance were also made available for public inspection upon request in the office of the Village Clerk.

DATED at Dupu, Illinois this 4<sup>th</sup> day of October 2021.

  
MARK NADLER, Village Clerk

{SEAL}

STATE OF ILLINOIS     )  
                                      ) SS  
COUNTY OF ST. CLAIR )

**CERTIFICATE OF TRUE COPY**

I, Mark Nadler, certify that I am the duly elected and acting Village Clerk of the Village of Dupu, Illinois, and as such I am the keeper of the books, records, files and corporate seal of said Village.

I do further certify that Ordinance No. 21-27, entitled:

**AN ORDINANCE APPROVING AND AUTHORIZING THE EXECUTION OF AN  
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to which this certificate is attached, is a true, perfect, complete and correct copy of said ordinance as adopted at a regular meeting of the Dupu, Illinois Village Council held on the 4<sup>th</sup> day of October 2021.

IN WITNESS WHEREOF, I have made and delivered this certificate for the uses and purposes hereinabove set forth this 4<sup>th</sup> day of October 2021.

  
\_\_\_\_\_  
MARK NADLER, Village Clerk

{SEAL}

**INTERGOVERNMENTAL AGREEMENT BETWEEN  
THE VILLAGE OF DUPO, ILLINOIS AND SUGARLOAF TOWNSHIP  
FOR WASTEWATER TREATMENT SERVICES**

**This Intergovernmental Agreement**, by and between the Village of Dupu, County of St. Clair, State of Illinois (hereinafter “the Village”) and Sugarloaf Township, County of St. Clair, State of Illinois (hereinafter “Sugarloaf Township”)(hereinafter collectively referred to as “the Parties”).

**WITNESSETH:**

**WHEREAS**, the Village is a public agency as defined by the Intergovernmental Cooperation Act, 5 ILCS 220/1, *et seq*; and

**WHEREAS**, Sugarloaf Township is a public agency as defined by the Intergovernmental Cooperation Act, 5 ILCS 220/1, *et seq*; and

**WHEREAS**, the Village is the owner and operator of a wastewater treatment facility located within the corporate limits of the Village of Dupu, Illinois, and will provide treatment for the wastewater generated from Sugarloaf Township; and

**WHEREAS**, Sugarloaf Township desires wastewater service from the Village to treat wastewater collected within the corporate limits of Sugarloaf Township by Sugarloaf Township’s collection system; and

**WHEREAS**, both the Village and Sugarloaf Township are authorized to enter into intergovernmental agreements pursuant to Article VII, § 10 of the Constitution of the State of Illinois and the provisions of the Intergovernmental Cooperation Act, 5 ILCS 220/1, *et seq.*; and

**WHEREAS**, the Village and Sugarloaf Township have mutually determined that it would be in the best interest of the public health, safety, and welfare of the citizens of both the Village and Sugarloaf Township to engage in an intergovernmental agreement in which the Village will provide wastewater treatment services to Sugarloaf Township at a rate to be fully described below, for the term of **November 1, 2021 through December 31, 2023**.

**NOW THEREFORE**, in consideration of the premises and the mutual promises and covenants herein contained, the Village of Dupu, Illinois, and Sugarloaf Township, do hereby agree as follows:

**I. DEFINITIONS**

All words, unless otherwise specified herein shall have the same meaning as their ordinary and common usage, to the extent that such ordinary and common usage does not contradict or otherwise disagree with the meaning of terms set forth in the Village of Dupu Municipal Code and more specifically, the definitions and meanings of words specifically defined in Chapter 32 of the Village of Dupu Municipal Code.

**EXHIBIT A**

## **II. SEWER CONSTRUCTION**

### **(a) Connection Facilities**

Sugarloaf Township will transport discharged wastewater to the Village's wastewater treatment facility. Such equipment used in the transport of wastewater will be the property of Sugarloaf Township, and Sugarloaf Township shall be solely responsible for the operation and maintenance thereof. Sugarloaf Township shall use good faith efforts to maintain such equipment in a commercially reasonable manner.

### **(b) Connection Point**

The wastewater discharged from Sugarloaf Township shall connect to the Village's system at the following location:

100 N. Coulter Road, Dupo, Illinois; and

Connection Point at Florence Avenue, Dupo, Illinois.

## **III. VILLAGE OF DUPO TO PROVIDE WASTEWATER TREATMENT SERVICES**

### **(a) Provision of Treatment Services**

Sugarloaf Township agrees to discharge, and the Village agrees to treat, all wastewater originating in Sugarloaf Township. The foregoing notwithstanding, the Village will only be required to accept wastewater originating from Sugarloaf Township that meets all applicable requirements of the Village, State, and Federal regulations for treatment by Village.

### **(b) Responsibility to Prevent Improper Discharge into the Village's System**

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

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

Sugarloaf Township's system regarding unacceptable waste discharged into Sugarloaf Township's system.

(c) Regulatory Requirements

Sugarloaf Township shall be required to adopt and administer within their own Code of Ordinances, Village of Dupon Code of Ordinances as contained in Chapter 32 entitled "Sewer System."

Sugarloaf Township shall be subject to requirements in the Village's National Pollutant Discharge Elimination System ("NPDES") permit as such pertains to the collection and transport facilities.

**III. MEASUREMENT OF THE TOWNSHIP'S WASTEWATER FLOW**

(a) Metering Devices

To measure the volume of wastewater discharged from the collection facilities of Sugarloaf Township into the Village's system, an accurate sewage metering device shall be constructed and maintained at the connection points. The metering device shall be equipped with remote registering and recording mechanisms housed in a suitable structure which indicates and continuously records the rate of flow, and which measures and totalizes the quantity of sewage passing through the meter.

(b) Village Approval of Placement and Construction

The wastewater metering devices shall be provided by Sugarloaf Township at its own expense. The type and location of the sewage meter and all plans and specifications and details pertinent hereto shall be subject to the approval of the Village.

(c) Reading and Recording

The reading and recording of results of the metering devices shall be done by both the Village and Sugarloaf Township. Sugarloaf Township shall maintain and operate the metering devices and cause same to be repaired upon request of the Village.

(d) Access, Testing, and Calibration

Either party shall have the right of access to the metering device and recording instruments for the purpose of making accuracy or calibration tests. An agent, employee, or designee, authorized by Sugarloaf Township shall only have such access during normal business hours, Monday through Friday. If an agent, employee, or designee, authorized by Sugarloaf Township, wishes to have access during Saturday or Sunday, said agent, employee, or designee must contact a representative from the Village of Dupon's Sewer Department. Under no circumstances shall any agent, employee, or designee of Sugarloaf Township have access to the facility without the presence of an employee, agent, or designee with proper authority of the Village.



No changes or adjustments to the metering device shall be made unless designated representatives of both the Village and Sugarloaf Township are present.

Anytime it has been determined that the wastewater metering device has not properly measured the volume of wastewater contributed by Sugarloaf Township, an adjustment of the measured wastewater flow shall be made. If the Village and Sugarloaf Township are unable to agree on the calibration of the metering device or on the adjustment of the measured wastewater flow, an impartial party, mutually satisfactory to the Village and Sugarloaf Township, shall be selected as an arbitrator to supervise the repairs and calibration of the metering device and to determine the proper adjustment of the measured flow. The finding of said arbitrator shall be final, but adjustments or measured wastewater flow shall not be retroactive for a period of more than three months.

#### **IV. CHARGES, METER READING, RATES, AND PAYMENT**

##### **(a) Charges**

Sugarloaf Township shall pay to the Village a Monthly Wastewater Service Charge based on the total quantity of wastewater transmitted to the Village's system, as measured by the metering devices at the connection points.

##### **(b) Meter Reading**

In order to calculate total charges owed by Sugarloaf Township, both parties shall each furnish each other meter readings made on the First Working Day of each month and a bill therefore on or about the 10<sup>th</sup> day of such month following such reading. If the meter shall fail to register for any period, the amount of sewage flow discharged during such period shall be deemed to be the same as for the corresponding month of the year prior, unless otherwise agreed to by the parties.

##### **(c) Rates**

Sugarloaf Township shall compensate the Village for wastewater services provided on a monthly basis at a rate of **Four Dollars and Eighty-nine Cents (\$4.89) per one thousand (1,000) gallons** of water treated, as reported by the metering device at the connection point. This rate shall apply for the first **Five Million (5,000,000) Gallons** of water treated by the Village. Any amount of wastewater treated in excess of **Five Million Gallons and less than Eight Million Gallons (5,000,001 – 7,999,999)** within the same **thirty (30) day** period shall be charged at a rate of **One Dollar and Fifty Cents (\$1.50) per one thousand (1,000) gallons** of water treated, and for that amount of wastewater treated of **Eight Millions Gallons or more (8,000,000+ gallons)** within the same **thirty (30) day** period shall be charged at a rate of **One Dollar (\$1.00) per one thousand (1,000) gallons** of water treated, as reported by the metering devices at the connection points.

(d) Payment

Payment for wastewater services provided to Sugarloaf Township by the Village shall be made on a monthly basis with payment due upon issuance of the bill for wastewater services provided. If the monthly bill is not paid within Thirty (30) days from the date of issuance of the bill, penalty and interest shall apply at a rate of Ten Percent (10%) of the unpaid balance per month for the duration of time in which the balance remains unpaid.

V. TERM OF AGREEMENT AND REVIEW

(a) Term

The term of this agreement shall be for **November 1, 2021** through **December 31, 2023**. Unless otherwise agreed to by the parties, the terms of this agreement will cease on **December 31, 2023**.

(b) 90 Day Review

Both parties shall hold a review regarding the wastewater services provided to Sugarloaf Township by the Village every Ninety (90) days. Both parties agree to review quality and quantity of wastewater processed by the Village on behalf of Sugarloaf Township, as well as the rates and total amounts charged to Sugarloaf Township per month. No changes or alterations of the rates or terms of this agreement may be changed unless approved by both parties.

VI. REMEDIES

In the event that Sugarloaf fails to pay for incurred obligations for wastewater treatment services for a period in excess of Ninety (90) days, or in the event that Sugarloaf Township's discharge to the Village is in noncompliance with any Village, State, or Federal regulations dealing with pollutant, contaminants, or excess flow levels, or in the event that there is a fundamental dispute of any material terms of this agreement, Sugarloaf Township agrees that the Village may exercise one or more of the following options:

(a) Upon Thirty (30) days written notice thereof, the Village may terminate its services to Sugarloaf Township without further notice; provided however, that such termination complies with all local, State, and Federal laws and regulations pertaining thereto; and provided further, that services to Sugarloaf Township shall not be terminated if, prior to expiration of Thirty (30) days from the written notice from the Village, Sugarloaf has met its financial obligations under this Agreement or has made reasonable arrangements to meet such obligations, or in the case of non-compliance with discharge limitations, has brought its discharges into compliance with the Village, State, or Federal regulations dealing with pollutant, or contaminants, or excess flow levels.

(b) In order to maintain a continuity of service, Sugarloaf Township shall have the right to make any payment of a disputed fee "under protest" which payment shall be subject to a refund in the event of a judicial decision in favor of Sugarloaf Township.

(c) In the event of any substantial dispute or if Sugarloaf Township fails or refuses to make payments of incurred obligations, or is lax in the enforcement of user charges and/or industrial cost recovery surcharges or fails to abide by other provisions of this agreement and if such dispute or violation continues over a period of more than fourteen (14) days, it will be the duty of the aggrieved party to submit such dispute to arbitration. Thereupon, each of the governing boards shall appoint within 30 days a disinterested arbitrator. The arbitrators thus selected will jointly appoint a third arbitrator within 14 days. The arbitrators shall adopt rules concerning procedures to be followed to commence an arbitration proceeding hereunder. The arbitrators selected will constitute an arbitration board to make an investigation and reach an agreement which will be binding upon both parties to this agreement. The arbitration board will be empowered to hire counsel or other professional or technical advisors to aid the board in its deliberations. The cost of the proceedings of the arbitration board shall be apportioned between the parties by the arbitrators. The board will have the power to assess the entire cost to one of the parties if it should determine that that party had arbitrarily or without justification caused such arbitration.

## **VII. ENFORCEABILITY**

This Agreement shall be enforceable in and only in the Circuit Court of St. Clair County, Illinois and by an appropriate action at law or equity to secure the performance of the covenants herein contained, including the remedies of injunction, mandatory injunction and specific performance.

## **VIII. HOLD HARMLESS**

Sugarloaf Township shall save, defend and, and hold the Village and its agents, officials, and employees harmless against any and all claims for damages by third parties, enforcement action by any State or Federal agency, or litigation including therein all costs, settlements, and fines and reasonable attorney fees, as a result of any violations or breaches of this Agreement by Sugarloaf Township or in relation to the services provided as a result of this Agreement.

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

The Village and Sugarloaf Township specifically reserve any claim, privilege, immunity, and defense accorded them under law.

## **IX. AMENDMENTS**

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

**X. ASSIGNMENT**

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

**XI. COOPERATION OF THE PARTIES**

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

**XII. RECITALS**

The matters contained in the recitals to this Agreement are agreed by the Village and Sugarloaf Township to be true and be interpreted as part of the Agreement by the Village and Sugarloaf Township.

**XIII. AGREEMENT COMPLETE**

This Agreement is intended to constitute a full and complete understanding between the parties with regard to the provision of wastewater treatment services. All prior understandings and agreements with regard to the Village providing wastewater treatment services to Sugarloaf Township are hereby null and void with the exception of the following: The parties expressly acknowledge and agree that this section excepts therefrom any outstanding obligations currently owed by Sugarloaf Township to the Village for wastewater services previously provided.

**XIV. EFFECTIVE DATE**

The effective date for this Agreement shall be **November 1, 2021**, and shall be applied retroactively, regardless of date of execution.

**XV. SEVERABILITY**

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

**[Signature Page to Follow]**

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on the respective dates indicated below.

VILLAGE OF DUPO, ILLINOIS  
A MUNICIPAL CORPORATION

SUGARLOAF TOWNSHIP, ILLINOIS  
A MUNICIPAL CORPORATION

BY: \_\_\_\_\_  
Jerry Wilson, Mayor  
Village of Dupo, Illinois

BY: \_\_\_\_\_  
Michael Sullivan,  
Sugarloaf Township  
Township Supervisor

Date: \_\_\_\_\_

Date: \_\_\_\_\_

ATTEST: \_\_\_\_\_  
Mark Nadler, Village Clerk  
Village of Dupo, Illinois

{SEAL}

ATTEST: \_\_\_\_\_  
Sean Drury,  
Sugarloaf Township Clerk

{SEAL}