

CITY OF PEORIA/GREATER PEORIA SANITARY DISTRICT
INTER-GOVERNMENTAL AGREEMENT

THIS AGREEMENT made the 22nd day of December, 1987, to become effective as of January 1, 1988, by and between the CITY OF PEORIA, ILLINOIS, a municipal corporation, hereinafter referred to as CITY, and THE GREATER PEORIA SANITARY AND SEWAGE DISPOSAL DISTRICT, Peoria, Illinois, a municipal corporation, hereinafter referred to as DISTRICT.

WITNESSETH THAT:

WHEREAS, the CITY has adopted its Ordinance No. 10,755 and a resolution, as may be amended from time to time, which imposes a sewer user charge for the use of the sewerage collection system owned and maintained by the CITY:

WHEREAS, the CITY has adopted its Ordinance No. 11,657 and a resolution, as may be amended from time to time, which imposes a sewer user charge for the rehabilitation of the sewerage collection system owned and maintained by the CITY:

WHEREAS, the DISTRICT has adopted its Ordinance No. 359, as may be amended from time to time, which imposes a sewer user charge for the use of the sewerage collection and treatment system owned and maintained by the DISTRICT:

WHEREAS, the CITY is in need of and has requested all customer service, billing, collection, accounting, and data processing services associated with the CITY's sewer user charge system:

WHEREAS, the DISTRICT is presently able to provide to the CITY such services in conjunction with the operation of the DISTRICT's sewer user charge system:

WHEREAS, the CITY and the DISTRICT have reached an agreement pursuant to the authority granted by the Illinois Constitution of 1970, Article VII, Section 10, and the provisions of the Intergovernmental Cooperation Act (I.R.S., Ch. 127, Para. 741, et seq.), whereby this objective may be accomplished:

NOW, THEREFORE, in consideration of the mutual promises and covenants hereinafter set forth, it is agreed by and between the CITY and the DISTRICT as follows:

A. CITY CUSTOMERS

Within the context of this agreement, CITY customers are: (a) those DISTRICT users whose wastewaters are discharged directly to or conveyed through a public sewer owned and operated by the CITY, and/or (b) those DISTRICT users who reside or own property within the Corporate Boundaries of the CITY.

B. DUTIES AND RESPONSIBILITIES OF THE DISTRICT

The DISTRICT agrees to perform the following:

1. Incorporate the CITY user charge system into the DISTRICT user charge system.
2. Maintain the CITY user charge accounts receivable by entering all debits and credits to both customer ledger and general ledger accounts in accordance with generally accepted accounting procedures.
3. Calculate all CITY billing and adjustments for wastewater collection based upon rates provided by the CITY.
4. Age accounts and charge penalties on delinquent amounts in accordance with the following:
 - (a) Penalties are calculated at an interest rate set forth in DISTRICT Ordinance No. 359, as amended.
 - (b) A minimum penalty of \$0.85 is charged on the delinquent balance if over \$1.00. The minimum penalty shall be divided in the amounts of \$0.43 and \$0.42 for the DISTRICT and CITY respectively, unless either the DISTRICT or CITY balance is zero. If one balance is zero, the minimum penalty is credited to the other agency.

- (c) Penalties over \$0.85 shall be divided in proportion of the interest of the DISTRICT and the CITY to the whole balance.
5. Print both the DISTRICT and CITY amounts on invoices, statements and debit or credit memos presented to CITY customers.
 6. Collect delinquent amounts in accordance with the DISTRICT's collection procedures, which include, but are not limited to, filing suit, making adjustments in amounts, filing liens against the property served, disconnecting the sewer from the property served, settling disputed amounts, and transmit such amounts collected together with the proportionate share of penalties, lien costs, etc. on a monthly basis.
 7. Write-off amounts that are judged uncollectible.
 8. Remit to the CITY the net amount of receipts on a monthly basis. The net receipts are those receipts less fees for general administration, filing and release of liens, attorney or any additional services performed by the DISTRICT.
 9. Make available the results of the annual audit of the user charge system. This audit is available after the end of the DISTRICT's fiscal year being April 30th.
 10. Advise the CITY as soon as possible of any possible changes in the DISTRICT's user charge rates and ordinance amendments so that the CITY may consider rate changes. The DISTRICT usually but not necessarily changes rates in June so that they are effective on or about July 1st.

C. DUTIES AND RESPONSIBILITIES OF THE CITY

The CITY agrees to the following:

1. If necessary, to amend its Ordinance No's. 10,755 and 11,657, or any resolutions so that they: (a) will coincide with DISTRICT Ordinance No. 359, as amended, as to types of customers, collection of delinquent amounts, late charges, etc., so that the CITY sewer charges conform to the DISTRICT's computer programs, and (b) will authorize the DISTRICT to bill and collect CITY sewer user charges pursuant to this agreement, to make adjustments and settle or compromise disputed amounts due, to file liens against the property of delinquent CITY customers, and to sue delinquent CITY customers for collection of delinquent accounts.
2. That the following specific provisions as contained in DISTRICT Ordinance No. 359, as amended, which Ordinance is attached to and made a part of this agreement, shall apply to all CITY customers.
 - A. Credit will be given for water used but not discharged to the sewers in accordance with Section 206 of Ordinance No. 359, as amended.
 - B. Responsibility, payment and delinquencies shall be in accordance with ARTICLE V of Ordinance No. 359, as amended.
 - C. Appeals shall be in accordance with: (a) paragraphs 801.1, 801.2, 801.4 and 801.5 of Section 801, (b) Section 802, (c) Section 803 and (d) Section 804 of ARTICLE VIII of Ordinance No. 359, as amended.
 - D. Penalties shall be in accordance with ARTICLE X of Ordinance No. 359, as amended.
 - E. Disconnection proceedings resulting from non-payment of user charges shall be in accordance with ARTICLE XI of Ordinance No. 359, as amended.
3. To accept the opinion of the DISTRICT's auditor as set forth in the annual audit of the DISTRICT's accounts. Provided however, that representatives of the CITY's internal audit division and/or independent auditors may, during the business hours of the DISTRICT and upon reasonable advance notice to the DISTRICT, conduct an on site inspection of the records of the DISTRICT insofar only as such records pertain to the accounts of the CITY.

4. To cooperate fully with the DISTRICT in the implementation and operation of this agreement.
5. Not to amend its Ordinance No's. 10,755 and 11,657, or any subsequent amendments thereto, or adopt or amend any resolution or procedures, affecting any of the provisions of this agreement in such a manner as would require the DISTRICT to alter, change, or modify its computer software programs, without the approval of the DISTRICT being first had and obtained.
6. The Executive Director of the DISTRICT or his duly appointed representative shall act as authorized agent for the CITY, and have full and final authority in such matters as: (a) filing liens against property; (b) filing suit; (c) settling accounts for a sum less than the full amount due; (d) adjusting accounts to reflect special circumstances or errors; (e) writing amounts off as uncollectible; (f) releasing liens; (g) initiating disconnection proceedings; (h) such other matters as may be necessary to implement the terms and provisions of this agreement.
7. To assume the burden of defending against any constitutional or statutory challenges regarding CITY user charges or ordinances.

D. FEES

The CITY agrees to pay the DISTRICT for services provided under this agreement and in accordance with the following:

1. General Administration Fee --

A general administration fee in the amount of \$20,000.00 per year will be charged at a rate of \$1,666.67 per month. Said fee will be deducted from those receipts transmitted on a monthly basis to the CITY. This fee shall cover those costs associated with the normal billing and collection of the CITY's user charges and does not include additional costs associated with the collection of delinquent accounts.

2. Lien Fees, Release of Lien Fees and Attorney's Fees --

Additional fees such as lien fees, release of lien fees and attorney fees associated with the collection of delinquent accounts shall be charged in proportion to the account balance. Said fees shall be deducted from those receipts transmitted on a monthly basis to the CITY.

3. All fees, as set forth in this item, shall be reviewed not more than annually and adjusted in accordance with the DISTRICT's cost experienced for the service performed and are subject to change by the DISTRICT upon 30 days written notice. The CITY may by written notice terminate this agreement on the effective date of such change; otherwise the new fees shall become effective.

E. GENERAL PROVISIONS

1. This agreement may be amended in writing from time to time by written agreement by the parties.
2. Neither the DISTRICT nor the CITY shall disclose any data furnished pursuant to this agreement to a third party. However, the DISTRICT may furnish and use such information in connection with collection of the user charges, and may furnish such information to third parties where necessary.
3. Each party will designate one individual, by title or position, to represent that party for the purposes of administration and the performance of this agreement.
4. The provisions of this agreement shall be liberally construed to effectuate the purpose hereof. Whenever necessary in this agreement and where the context admits, the singular term and the related pronoun shall include the plural, the masculine and the feminine.

5. Any notice provided for in this agreement shall be in writing, and shall be addressed to the CITY at City Hall, 419 Fulton Street, Peoria, Illinois, 61602, and to the DISTRICT at 2322 South Darst Street, Peoria, Illinois, 61607.
6. No covenants, terms, conditions, obligations, or provisions contained in this agreement shall be deemed abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.
7. The invalidity of any provisions of this agreement shall not impair the validity of any other provisions. Any provisions of this agreement determined by a Court of competent jurisdiction to be unenforceable, will be deemed severable and the agreement may be enforced with that provision severed or as modified by the Court.
8. All the covenants and agreements herein contained shall extend to and be obligatory upon the successors and assigns of the respective parties hereto.
9. In the event of default by either party hereto necessitating the other party to incur attorney's fees and/or court costs in enforcing their rights hereunder, the defaulting party hereby agrees to pay all attorney's fees, court costs and other expenses incurred by the nondefaulting party in curing said default.
10. The DISTRICT will take such precautions as it deems appropriate to prevent the loss or alteration of, or improper access to, the information and data supplied by the CITY. However, the DISTRICT assumes no responsibility for loss or security of records or damages caused by the DISTRICT's negligence or otherwise, arising in connection with services rendered under this agreement or any amendment thereto. The DISTRICT does not guarantee the correctness of any information furnished in the course of such services and the DISTRICT will not be held liable for any loss or injury caused in whole or in part, either by its negligence or contingencies beyond its control in procuring, compiling, collecting, interpreting or communicating such information. In no event shall the DISTRICT be liable for consequential damages.
11. Upon the termination of this agreement, the DISTRICT will dispose of the CITY's information and data remaining in the DISTRICT's computer or possession in any manner it deems appropriate unless the CITY, prior to such termination, furnishes to the DISTRICT written instructions for the disposition of such information and data at the CITY's expense.
12. The CITY is solely responsible for the accuracy and adequacy of the data and information it furnishes to the DISTRICT for processing and for the resultant output thereof.
13. The CITY agrees to hold the DISTRICT harmless from, and to indemnify the DISTRICT against any and all claims, damages, losses, costs and expenses (including attorney's fees) arising from, in consequence of or connected with, the services provided herein, except in such instances where the sole cause is by reason of gross negligence by the DISTRICT.
14. Nothing herein contained shall require the DISTRICT to bill CITY customers who are not presently billed customers of the DISTRICT. It is understood that the DISTRICT does not bill owners of vacant land and others who do not use sewer services of the DISTRICT.

F. CURRENT AGREEMENT

An agreement entitled "CITY OF PEORIA/GREATER PEORIA SANITARY DISTRICT INTER-GOVERNMENTAL AGREEMENT" dated August 16, 1983 and effective September 1, 1982, is hereby terminated.

G. TERM OF AGREEMENT

This agreement will be in effect for a term of one year(s) from the effective date hereof, from year to year unless terminated by written notice by either party to the other at least 120 days in the case of termination by the DISTRICT and at least 60 days in the case of termination by the CITY.

H. ASSIGNMENT

This agreement may not be assigned to any third party without the approval of both the DISTRICT and the CITY.

I. ARBITRATION

Any controversy which shall arise between the CITY and the DISTRICT regarding the rights, duties, or liabilities hereunder of either party shall be settled by arbitration. Such arbitration shall be before one disinterested arbitrator if one can be agreed upon, otherwise before three disinterested arbitrators, one named by the CITY, one by the DISTRICT, and one by the two thus chosen. The arbitrator or arbitrators shall determine the controversy in accordance with the laws of the State of Illinois as applied by the facts found by him or them. The expense of arbitration proceedings conducted hereunder shall be borne equally by the parties.

IN WITNESS WHEREOF, the parties hereto, pursuant to authority granted by Resolutions duly adopted by their respective governing bodies, have caused these presents to be executed by their authorized officers, attested, and their corporate or official seals to be affixed, on the day and date first written above.

CITY OF PEORIA, ILLINOIS

THE GREATER PEORIA SANITARY AND SEWAGE DISPOSAL DISTRICT

By: James Maloof
Mayor

By: William J. ...
President

ATTEST:

ATTEST:

Mary G. ...
City Clerk

Harmon ...
Clerk

AN AGREEMENT AMENDING AN AGREEMENT OF JUNE 19, 1984 BETWEEN THE CITY OF PEORIA AND THE GREATER PEORIA SANITARY AND SEWAGE DISPOSAL DISTRICT.

THIS AGREEMENT, entered into this 2nd day of December, A.D., 1987, by and between the CITY OF PEORIA, a municipal corporation, hereinafter referred to as "City", and THE GREATER PEORIA SANITARY AND SEWAGE DISPOSAL DISTRICT, a municipal corporation organized and existing under the Sanitary District Act of 1917 of the State of Illinois, hereinafter referred to as "District", WITNESSETH AS FOLLOWS:

WHEREAS, the City and District have entered into an agreement on the 19th day of June, 1984 for the purpose of constructing a gravity interceptor sewer system known as the Charter Oak Interceptor Sewer - Phase I; and,

WHEREAS, it is now necessary to make certain amendments to said agreement; and

WHEREAS, the parties may, pursuant to Article VII, Section 10 of the Constitution of The State of Illinois of 1970 and the provisions of the Intergovernmental Corporation Act (Illinois Revised Statutes, Chapter 127, Paragraph 741 et seq.), enter into agreements for the exercise of their joint corporate powers;

NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL PROMISES AND AGREEMENTS HEREIN CONTAINED, AND IN FURTHERANCE OF INTERGOVERNMENTAL COOPERATION, THE PARTIES HERETO AGREE TO AMEND THE JUNE 19, 1984 AGREEMENT AS FOLLOWS:

1. Delete from Section No. 1 Definitions, definitions (c), (f), (k) and (l) and substitute the following:
 - (c) "Construction Documents" - The construction plans and specifications entitled "Construction Documents for the Charter Oak Interceptor Sewer - Phase I" as submitted to and approved by the Illinois Environmental Protection Agency in accordance with Permit No. 1987-HB-1995 dated March 27, 1987.
 - (f) "Ordinance No. 359 and 352" - Ordinance No. 359 of the District, adopted June 17, 1986 and Ordinance No. 352 of the District adopted May 14, 1985, as amended by Ordinance No. 360 adopted June 17, 1986 and any future amendments thereto.

- (k) "Local Share" - That part of the Project Costs not committed by the State from the "Build Illinois Program". The total Local Share shall consist of the District's Local Share plus the City's Local Share.
- (l) "Grant Eligible" - Project costs for which State Funds from the "Build Illinois Program" will pay 70% to the City. Such costs may include but are not necessarily limited to the cost of construction of the Charter Oak Interceptor for a Population Equivalent of 21,000 persons, an allowance for design engineering services, engineering services during construction, and, if necessary, preparation of an operation and maintenance manual.
2. Delete Section No. 2. Scope, Cost, and Construction of Project. and substitute the following:
2. Scope, Cost and Construction of Project. It is the intent of the City and District to obtain the maximum possible funding of grant eligible costs from the State of Illinois "Build Illinois Program" as administered by the Illinois Environmental Protection Agency. Therefore, it is agreed that the District will make appropriate application for such funding subject to the following provisions:
- (a) The scope of the project shall be as shown in the Construction Documents as agreed upon by the District and approved by the Illinois Environmental Protection Agency in accordance with Permit No. 1987-HB-1995 dated March 27, 1987.
- (b) The District's and City's responsibilities with respect to the project costs shall be in accordance with the following provisions:
- (1) Of the total project cost, the District will be responsible for \$296,500 of the local share.
- (2) All costs in excess of the above amount will be the responsibility of the City. The City will establish an interest-bearing escrow account which the City will initially fund to the amount of \$500,000. The District shall be able to draw from this account the

City's share of project cost. Each draw from the account will be based on an invoice for the contractual construction and copies of such will be transmitted to the City. All interest earned on the account shall be income owned and due to the City. After the contract for construction has been completed, all remaining monies in the escrow account belong to the City.

- (3) All reimbursements of grant eligible costs received by the District from the Illinois Environmental Protection Agency will be transferred to the above described escrow account as soon as possible to be applied, if needed, to the City's share of the project cost.
 - (4) Upon completion of the construction and after acceptance by the District and after final payment of all outstanding claims, the District will prepare a statement of the final total costs of the project. A copy of this statement will be transmitted to the City for review and approval.
 - (5) In the event the funds, as set forth in (2) above, exceed the final costs of the project, any surplus will be transmitted to the City as soon as possible. In the event; however, the total project costs exceed the funds on hand and said cost increases were duly authorized by the City of Peoria, the City will transmit the necessary funds to cover the deficit to the District as soon as possible.
 - (6) After the final project costs are determined the District will file a request for a final audit of the grant eligible costs with the Illinois Environmental Protection Agency.
- (c) The City and District agree that the District will be the lead agency for the purpose of administrating and coordinating all matters pertaining to the project in accordance with such special and general conditions as may

be set forth in the expected funding offer from the Illinois Environmental Protection Agency and, also, in accordance with the following provisions:

- (1) The District shall be responsible for obtaining proposals for the construction and the award of any contracts, subject to the review and approval of the City and the Illinois Environmental Protection Agency.
 - (2) The District shall, subject to the review and approval of the City and the Illinois Environmental Protection Agency, be responsible for obtaining the service of any local consulting engineers for the purpose of providing any required revisions to the Contract Documents, applications for State funding in accordance with any special and general condition, and field engineering and inspection services.
 - (3) Both the City and District shall have the right to reject any grant offer by the Illinois Environmental Protection Agency within 45 days of the receipt thereof and shall have the right to reject any construction bids within 45 days of the receipt thereof. In the event either the City or District decides to reject such grant offer or such bids or in the event the IEPA rejects such bids, this Agreement shall be deemed terminated, with each party being responsible for its cost and expenses.
- (d) The District shall be responsible for administering and supervising the activities of any field construction personnel assigned to the construction of the project in accordance with the following provisions:
- (1) The District shall review, approve and certify to the City the validity of all claims made by the contractor for partial and final payments.
 - (2) The District shall review, approve and certify to the City the validity of all change orders.
 - (3) The District shall perform a final inspection of all work performed for adherence to the Construction

Documents and standards of the District and certify that the project is acceptable to the District.

- (e) All construction of the Charter Oak Interceptor shall be according to the Construction Documents.
- (f) No wastewater shall be discharged into the Charter Oak Interceptor until such time as a Certificate of Substantial Completion has been issued and approved by the District, in accordance with the terms of the Construction Documents and any approved changes thereto. Upon issuance of a Certificate of Substantial Completion and upon compliance by the City with the other provisions of this Agreement (including the payment of the Capital Investment Contribution and conveyance of the sewers to the District), wastewater may be discharged through the Charter Oak Interceptor for treatment by the sewage treatment facilities of the District.

- 3. In the second line of the second paragraph of Section No. 3. Future Additions. "Ordinance No. 302" shall be changed to "Ordinance No. 352".
- 4. In the fourth line of the first paragraph of Section No. 4. Building Connections and Inspections. "Ordinance No. 302" shall be changed to "Ordinance No. 352".
- 5. In the fourth line of the first paragraph of Section No. 8. User Charges. "Ordinance No. 331" shall be changed to "Ordinance No. 359".

IN WITNESS WHEREOF, THE GREATER PEORIA SANITARY AND SEWAGE DISPOSAL DISTRICT has caused this Agreement to be executed by its officers, thereunto, duly authorized by its Board of Trustees, and the CITY OF PEORIA has caused this instrument to be executed by its respective officers, and the respective corporate seals affixed all at Peoria, Illinois, as of the day and year first above written.

ATTEST:

Mary L. Hayes
City Clerk

CITY OF PEORIA, A MUNICIPAL CORPORATION

BY James W. McKinley
City Manager

ATTEST:

James W. Miller
Clerk

THE GREATER PEORIA SANITARY AND SEWAGE DISPOSAL DISTRICT

BY Willie B. Long
President