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Kalamazoo City Clerk

To: Marc A. Ott, City Manager

From: Kenneth P. Collard, Utilities Director *KPC*

Date: June 16, 1994

Subject: Gull Lake Sewer & Water Authority Wastewater Service Agreement

GIS SCANNED

RECOMMENDED CITY COMMISSION ACTION

City Commission approval is requested for a new Wastewater Service Agreement with the Gull Lake Sewer & Water authority (GLS&WA). This new Agreement includes the Village of Richland in the sewer district that is operated and maintained by the GLS&WA.

BACKGROUND

The GLS&WA constructed a sanitary sewer system, which serves the homes around Gull Lake and also serves the facility formerly occupied by Production Plated Plastics Company, east of Richland Village. All wastewater goes through a lift station where the wastewater is metered prior to being sent to the interceptor sewer that connects to the Kalamazoo Water Reclamation Plant.

The original GLS&WA represented the Townships of Richland, Ross, Barry and Prairieville, each of which had agreed that the Authority would operate and maintain their common sewer system. A Wastewater Service Agreement was approved by the City Commission on 2/27/89 to formalize arrangements that the City of Kalamazoo would provide wastewater disposal service only as though these four Townships were a master metered community. Since 1989, the Village of Richland has been included in the GLS&WA. The attached Wastewater Service Agreement would include the Village of Richland as part of the GLS&WA Contract with the City of Kalamazoo.

ALTERNATIVES

An alternative would be to ignore the need for a formal inclusion of the Village of Richland in the GLS&WA Agreement.

BUDGETARY/STAFFING IMPACTS

There are no budgetary or staffing impacts associated with this request.

Marc A. Ott
June 16, 1994
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SUMMARY

City Commission approval on the attached Wastewater Service Agreement with the Gull Lake Sewer & Water authority as a routine legal step to include the Village of Richland, who is now receiving wastewater disposal services through the GLS&WA master meter. This Agreement has been approved "as to form" by the City Attorney and has been approved by the attorneys representing the GLS&WA.

BM\aea\Gull_Contract

attach

c: Lee Kirk
File

Gull Lake Sewer & Water Authority

P.O. Box 322 / 11829 E. M-89
Richland, Michigan 49083

(616) 731-4595 / FAX: 731-2596

August 17, 1992

GIS SCANNED

Mr. Ken Collard
Director - Public Utilities
415 Stockbridge
Kalamazoo, MI 49007

RE: Wastewater Service Agreement


Dear Ken;

Attached are three (3) original documents approved by the Townships of Ross and Richland in Kalamazoo County and Barry and Prairieville in Barry County, the Village of Richland (Kalamazoo County) and the Authority. This agreement was re-enacted to include the Village of Richland in the sewer district that this office operates and maintains, as sewer construction nears completion in Richland.

Please obtain approval by City Council, have signed, keep one (1) copy for your files and return two (2) originals to us. Bruce Minsley has details on this if there are questions.

Respectively,

GULL LAKE SEWER AND WATER AUTHORITY


Richard L. Pierson
Manager

RLP:djhf

CC: Bruce Minsley
: Lynda Thomsen

WASTEWATER SERVICE AGREEMENT

CITY OF KALAMAZOO - GULL LAKE SEWER & WATER AUTHORITY

THIS AGREEMENT entered into this day of 11 July, ¹⁹⁹⁴~~1992~~, by and between the City of Kalamazoo, hereinafter referred to as "KALAMAZOO," which is a unit of government located in Kalamazoo County, Michigan, and the GULL LAKE SEWER AND WATER AUTHORITY, hereinafter referred to as "MUNICIPALITY," which is an organization created pursuant to the laws of the State of Michigan for the purpose of operating a wastewater collection system, and the Village of Richland.

WITNESSETH:

WHEREAS, KALAMAZOO and MUNICIPALITY both pursuant to authority granted by law, operate and maintain wastewater collection systems; and

WHEREAS, the Townships of Richland, Ross, Prairieville and Barry, Michigan, formed the Gull Lake Sewer and Water Authority; and

WHEREAS, the Village of Richland is located in the Township of Richland and portions of the Collection System of the Gull Lake Area Sewer and Water Authority are being constructed through the Village and will be providing service to premises within the Village; and

WHEREAS, KALAMAZOO and MUNICIPALITY previously entered a Wastewater Service Agreement dated September 15, 1980 which was amended September 27, 1989; and

WHEREAS, it is desired to incorporate into a single document the addition of the Village of Richland to the wastewater service agreement and the provisions of the wastewater service agreement dated September 27, 1989; and

WHEREAS, the Federal regulations associated with the Federal grants obtained by one or more of these communities for pollution abatement require this Agreement to govern their co-operative efforts.

NOW, THEREFORE, in consideration of the promises and undertakings of the parties hereto, IT IS AGREED AS FOLLOWS:

1. This Agreement replaces all previous Agreements between these units of government relating to transportation and treatment of wastewaters, and any said previous agreements are hereby rescinded.

2. DEFINITIONS: "Wastewater" shall be defined in accordance with Chapter 28 of the Kalamazoo City Code, as that Code is now or may be amended.

"Wastewater System" shall be defined in accordance with Chapter 28 of the Kalamazoo City Code, as that Code is now or may be amended.

"Collection System" - All sanitary sewers, trunks, interceptors, pumping stations, appurtenances, instrumentalities, or properties used or useful in the collection and conveyance of wastewater operated by the MUNICIPALITY.

"Treatment Facilities" - All Piping, pumps, force mains, structures, equipment, appurtenances, instrumentalities, or properties used or useful in the treatment and disposal of wastewaters operated by KALAMAZOO.

"Sanitary Sewers" shall be defined in accordance with

Chapter 28 of the Kalamazoo City Code, as that Code is now or may be amended.

3. CONVEYANCE OF WASTEWATERS: MUNICIPALITY agrees to convey its wastewaters to the KALAMAZOO facilities at points established in the 201 Facilities Plan for the Kalamazoo Metropolitan Area. No flow rate in excess of that in the 201 Facilities Plan for the Kalamazoo Metropolitan area shall be discharged to the Kalamazoo system at any point without prior approval of KALAMAZOO.

4. ACCEPTANCE & TREATMENT: KALAMAZOO agrees to accept wastewater to the best of its ability, in accordance with its NPDES Permit, from the MUNICIPALITY SERVICE AREA, shown in the 201 Facilities Plan (including the Village of Richland), into its treatment facilities, and to provide for the treatment and disposal thereof.

5. WASTEWATER CONTROL: As long as the wastewater of MUNICIPALITY (including the Village of Richland) is treated by KALAMAZOO, MUNICIPALITY shall have in effect a plumbing code and such other ordinances, rules, regulations as may be necessary to maintain standards for the construction, maintenance, repair, and use of the wastewater collection system equal to those then in effect in KALAMAZOO, and shall provide for the strict enforcement thereof.

At the request of KALAMAZOO, MUNICIPALITY shall terminate service at any location along the collection system which fails to comply with said ordinances, rules and regulations. KALAMAZOO shall have the right to inspect the MUNICIPALITY Collection System and customer connections thereto for Purposes of enforcement of this Agreement.

The above ordinances, rules, and regulations governing construction, maintenance, repair, and use shall be as stringent as those of KALAMAZOO, including but not limited to the pertinent provisions of Chapter 28 of the Kalamazoo City Code, as that Code exists at present or may be amended from time to time. Any changes in Federal or State law or regulations or in the Kalamazoo City Code which set stricter standards shall automatically become part of this contract.

The MUNICIPALITY Collection System shall be used for only such wastewaters as are permitted under such laws, ordinances, rules and regulations as are in effect at the time of the given use.

6. COLLECTION SYSTEM CONSTRUCTION: MUNICIPALITY agrees to continue to construct, at its expense, its wastewater collection systems. Any MUNICIPALITY collection system construction (new sewers, reconstruction of existing sewers, etc.) shall be designed by a Registered Professional Engineer and the design, plans, and specifications therefor shall be subject to prior review and approval by KALAMAZOO acting through its Director of Public Utilities, and shall equal KALAMAZOO standards for materials and construction. Any construction of the Collection System shall be inspected by qualified personnel under the supervision of the Professional Engineer.

Detailed records of collection system additions or modifications shall be maintained by MUNICIPALITY, and copies of as-built drawings and records pertaining to service connections and property leads shall be furnished to KALAMAZOO. No system extensions beyond the MUNICIPALITY corporate limits or the area being served shall be made without prior written approval from KALAMAZOO.

7. COMPENSATION: MUNICIPALITY agrees to compensate KALAMAZOO for the transportation and treatment of wastewater from

the MUNICIPALITY collection system on the basis of the measured wastewater flow it delivers to KALAMAZOO'S treatment facilities.

The rate of payment applicable to the wastewater flow for MUNICIPALITY shall be as set forth in Chapter 28 of the Kalamazoo Code of Ordinances, as amended.

User charges for operation, maintenance, and replacement of treatment facilities shall conform with guidelines established by the U.S. Environmental Protection Agency or other regulatory agencies, as amended. Such charges shall generate sufficient revenue to pay all costs of operation, maintenance and replacement, which are the responsibility of KALAMAZOO. The system of user charges shall be reviewed at least once every two years and revised as required. Such charges shall ensure that every user and user class pays its proportionate share of the operation, maintenance, and replacement costs.

The system of capital charges shall be reviewed at least once every two years and revised as required to ensure that every user and user class pays its proportionate share of such charges.

MUNICIPALITY and KALAMAZOO may use a rate expert selected by KALAMAZOO to assist them in reviewing the charges, and the cost of such expert shall be charged to the Wastewater System.

All bills for services rendered by KALAMAZOO shall be due and payable by MUNICIPALITY within thirty days following the date of such billings. A charge of 5% of the amount of the bill plus 1% per month interest shall be added to overdue billings.

MUNICIPALITY agrees to charge rates to its customers which are sufficient to cover the costs charged by KALAMAZOO pursuant to this contract as well as to cover the capital, operating, and maintenance costs of MUNICIPALITY'S Collection system.

8. INDUSTRY: MUNICIPALITY agrees to establish charges against industrial users of the MUNICIPALITY Collection System, to require such pretreatment of industrial wastes and to execute contracts with industrial users as may be required to comply with Federal regulations established as a condition of approval of Federal grants for KALAMAZOO or MUNICIPALITY. All charges collected by MUNICIPALITY for industrial treatment surcharges or industrial cost recovery for projects attributable to KALAMAZOO'S construction shall be turned over to KALAMAZOO to be used in accordance with applicable Federal regulations.

9. INDUSTRIAL CONNECTION: Any industry desiring to use the Collection System of the MUNICIPALITY within the service area, described in 4, above, for industrial wastes, shall apply in writing to KALAMAZOO'S Director of Public Utilities and the appropriate official of the MUNICIPALITY for permission to connect to the Collection System of the MUNICIPALITY. No discharge of any industrial wastes into the Collection System in the service area shall be permitted unless and until all of KALAMAZOO'S lawful requirements have been met, including, where required, the pretreatment of such industrial wastes as approved by KALAMAZOO.

10. CONSTRUCTION AND MAINTENANCE: All maintenance, construction, reconstruction, or repair of MUNICIPALITY'S Wastewater Collection System or any part thereof, shall be solely the responsibility of MUNICIPALITY. At its sole discretion, KALAMAZOO shall have the right at any time to test the meter which measures the flow of wastewater from MUNICIPALITY into the KALAMAZOO System to determine whether or not said meter is functioning properly.

11. KALAMAZOO shall be permitted to use streets, highways, alleys, and/or easements in the MUNICIPALITY for the purpose of

constructing, maintaining, and operating wastewater system facilities to adequately serve the MUNICIPALITY and other areas. This consent is given in compliance with Article 7, Section 29, of the Michigan Constitution of 1993. KALAMAZOO shall restore all existing structures and/or improvements lying in the right-of-way of construction to a condition comparable to that existing before the construction took place. Any such facilities constructed, maintained, and operated under this section shall remain in perpetuity the property of KALAMAZOO and shall not be operated or maintained by any other than employees of KALAMAZOO or its authorized representatives. Any portion of the collection system paid for by the MUNICIPALITY and within its jurisdiction shall remain the property of the MUNICIPALITY.

12. HOLD HARMLESS: MUNICIPALITY agrees to save, defend, hold harmless, and indemnify the City of Kalamazoo, its departments, agents, officials, and employees from any liability, claim, fine, cost, or penalty of whatever form or kind, including but not limited to personal injury or property damage because of any act or omission of the MUNICIPALITY or one or more of its officers, agents, employees, or departments, or of any customer, user, or recipient of services.

KALAMAZOO agrees to save, defend, hold harmless, and indemnify the MUNICIPALITY, its departments, agents, officials, and employees from any liability, claim, fine, cost, or penalty of whatever form or kind, including but not limited to personal injury or property damage because of any act or omission of KALAMAZOO or one or more of its officers, agents, employees, or departments, or of any customer, users, or recipient of services therein.

13. HOLD HARMLESS: MUNICIPALITY agrees to save, defend, hold harmless, and indemnify KALAMAZOO, its departments, agents, officials, and employees from any liability, claim, fine, cost, or penalty of whatever form or kind, including but not limited to fines, costs, fees, or penalties imposed upon KALAMAZOO by any court or administrative agency, including but not limited to the United States Environmental Protection Agency or the Michigan Department of Natural Resources, because of any act or omission of the MUNICIPALITY or one or more of its officers, agents, employees, or departments, or of any customer, user, or recipient of services therein, if the act or omission constitutes a violation of or places KALAMAZOO in violation of any health or environmental statute, ordinance, rule, or regulation.

14. It is mutually understood and agreed that the MUNICIPALITY Collection System may be utilized to serve areas of KALAMAZOO or other communities. KALAMAZOO agrees that no connection will be made that is not in accordance with accepted wastewater system collection practice.

15. OPERATING LIABILITY: KALAMAZOO will use reasonable diligence but does not guarantee uninterrupted service and shall not be liable for injuries or damages caused by such interruptions whether caused by defects in original construction, cave-ins, accidents, repairs, or other causes, nor shall KALAMAZOO be liable to MUNICIPALITY or any customer or other person, firm, or corporation for injuries or damages of any nature caused by the use of the treatment facilities of KALAMAZOO or the MUNICIPALITY collection system or by interruptions therein.

16. TERMINATION: This agreement shall remain in full force and effect for an indefinite period of time but for at least a period of thirty (30) years unless sooner terminated by consent of the parties hereto or by either party because of a breach by the other party of a material provision or undertaking herein or failure to make a payment required hereunder; provided, however that no termination shall be made because of such a breach until

after the expiration of six months following a written notice of such breach to the offending party by the other party hereto, which notice shall specify how in the opinion of the non-offending party the breach can be corrected. After the expiration of the 30-year period, either party may terminate the agreement upon one year's written notice to the other party.

17. ASSIGNMENT: KALAMAZOO shall at all times have the right and may at any time exercise that right to assign all of its rights, obligations, and liabilities to a wastewater authority created for the KALAMAZOO area.

18. SAVING CLAUSE: Should any part of this Agreement be held by a court of competent jurisdiction to be illegal or unenforceable, such event shall not be deemed to automatically affect the validity of any other portion hereof, but if the ruling deprives a party of one or more rights under this Agreement, this Agreement may be suspended upon ten (10) days written notice to the other party. The parties would then negotiate for the purpose of revising the contract.

IN WITNESS WHEREOF, this Agreement is signed and delivered the day and year first above written by authority of the City Commission of KALAMAZOO given JUL 11, ~~1992~~ 1994

CITY OF KALAMAZOO
a Michigan Municipal Corporation

By: [Signature]
Its City Manager

IN WITNESS WHEREOF, this Agreement is signed and delivered the day and year first above written by authority of the GULL LAKE SEWER AND WATER AUTHORITY by Resolution and By-Law dated May 28, 1992.

GULL LAKE SEWER AND WATER AUTHORITY

By: William B. Moore
Its Chairman

By: Paul E. Andrews
Its Secretary

IN WITNESS WHEREOF, this Agreement is signed and delivered the day and year first above written by authority of the TOWNSHIP BOARD OF BARRY TOWNSHIP, BARRY COUNTY, MICHIGAN by Resolution dated June 2, 1992.

BARRY TOWNSHIP BOARD

By: William B. Moore
Its Supervisor

By: [Signature]
Its Clerk

IN WITNESS WHEREOF, this Agreement is signed and delivered the day and year first above written by authority of the TOWNSHIP BOARD OF PRAIRIEVILLE TOWNSHIP, BARRY COUNTY, MICHIGAN by Resolution dated June 10, 1992.

FRAIRIEVILLE TOWNSHIP BOARD

By: Paul E. Andrew
Its Supervisor

By: Janette Erig
Its Clerk

IN WITNESS WHEREOF, this Agreement is signed and delivered the day and year first above written by authority of the TOWNSHIP BOARD OF ROSS TOWNSHIP, KALAMAZOO COUNTY, MICHIGAN by Resolution dated June 2, 1992.

ROSS TOWNSHIP BOARD

By: Linda Amintant
Its Supervisor

By: Martha Chambers
Its Clerk

IN WITNESS WHEREOF, this Agreement is signed and delivered the day and year first above written by authority of the TOWNSHIP BOARD OF RICHLAND TOWNSHIP, KALAMAZOO COUNTY, MICHIGAN by Resolution dated July 7, 1992.

RICHLAND TOWNSHIP BOARD

By: Ray S. Blanchard
Its Supervisor

By: Betty Benn
Its Clerk

IN WITNESS WHEREOF, this Agreement is signed and delivered the day and year first above written by authority of the VILLAGE COUNCIL OF VILLAGE OF RICHLAND, KALAMAZOO COUNTY, MICHIGAN, by Resolution dated June 8, 1992.

VILLAGE OF RICHLAND COUNCIL

By: Jack E. Gray
Its President

By: Rosemary Woodward
Its Clerk