

AGREEMENTGULL LAKE SEWER & WATER AUTHORITY - VILLAGE OF RICHLAND

This Agreement entered into this 8th day of July, 1991, by and between the Gull Lake Sewer & Water Authority, hereinafter referred to as "AUTHORITY", and the Village of Richland, Richland Township, Kalamazoo County, Michigan, hereinafter referred to as "VILLAGE."

WITNESSETH:

WHEREAS, AUTHORITY, as agent for the Townships of Richland and Ross, Kalamazoo County, Michigan, and the Townships of Barry and Prairieville, Barry County, Michigan, hereinafter, "MEMBER TOWNSHIPS" and pursuant to authority granted by law, operates and maintains a wastewater collection system within said townships, including facilities financed by bonds issued by the County of Kalamazoo which, pursuant to contract, will ultimately be owned by AUTHORITY; and

WHEREAS, AUTHORITY has undertaken a project to construct additional public sanitary sewer lines and appurtenances within Richland Township, and has offered to extend said lines and appurtenances through VILLAGE, in order to promote and protect the health, safety and welfare of persons and property within VILLAGE; and

WHEREAS, VILLAGE has determined that it is in the interests of its residents to authorize and permit the construction of such public sanitary sewer lines and appurtenances within the VILLAGE as part of the system of AUTHORITY, and has agreed to pay part of the costs of said public sanitary sewage lines and appurtenances

by specially assessing property within the VILLAGE for said costs; and

WHEREAS, AUTHORITY and VILLAGE, together with Richland Township, have requested that Kalamazoo County issue bonds to finance part of the cost of said project, to be repaid by VILLAGE and Richland Township in proportion to the costs to be borne by VILLAGE and by Richland Township; and

WHEREAS, VILLAGE and AUTHORITY have the power to enter into this contract for public sanitary sewer services,

NOW, THEREFORE, the parties hereby agree as follows:

1. VILLAGE authorizes the construction of public sanitary sewer and appurtenances as shown on Exhibit A (M-89 West Extension No. 2) within VILLAGE to be owned, operated and maintained (including, but not limited to, normal maintenance plus improvement and replacement) by AUTHORITY as part of its public sanitary sewer and wastewater collection system.

2. AUTHORITY agrees to cause said public sanitary sewers and appurtenances to be constructed within VILLAGE, as part of AUTHORITY'S public sanitary sewer and wastewater collection system, and agrees to permit users within VILLAGE to use said facilities on the same basis as other users of AUTHORITY'S system, as more fully set forth below.

3. VILLAGE agrees to bill and collect all special assessments levied by VILLAGE upon property within VILLAGE, and to forward all sums collected to AUTHORITY to be held in a special fund called Common Fund No. 2. Funds held in Common Fund

No. 2 shall be applied by AUTHORITY to payment of debt service billings from Kalamazoo County for bonds issued by Kalamazoo County to finance part of the cost of this project, as referred to above. The AUTHORITY agrees to bill and to collect connection fees and second benefit charges established by VILLAGE for connections to the public sanitary sewer line within VILLAGE in the same manner as AUTHORITY bills and collects said charges for MEMBER TOWNSHIPS, and to deposit all such sums collected in Common Fund No. 2 until such time as the bonds issued to finance the project have been paid in full or until such time as the balance in Common Fund No. 2 plus unpaid special assessments (if any) equals the total amount of outstanding indebtedness (including interest) due for the project, whichever first occurs. Any connection fees or second benefit charges collected thereafter shall be used only for capital costs (defined as costs of expansions or improvements to the system) of expansions, extensions, or other improvements made to the project facilities or to future extensions thereto. Within Common Fund No. 2, AUTHORITY shall account separately for sums collected from within VILLAGE and from within Richland Township. All sums deposited in Common Fund No. 2 will be used by AUTHORITY solely for defraying capital costs of the project.

4. VILLAGE agrees that in consideration for AUTHORITY'S undertakings as set forth herein:

a) VILLAGE shall, as long as wastewater of VILLAGE users is conveyed through said public sanitary sewers and

appurtenances, have in effect a plumbing code and a sewer use ordinance and such other ordinances, rules, and regulations as may be necessary to maintain standards for the construction, maintenance, repair, and use of the wastewater collection system equal to those in effect in the MEMBER TOWNSHIPS, and shall provide for the strict enforcement thereof.

b) AUTHORITY shall have the right to inspect any portion of the system located within the VILLAGE limits, and premises connected thereto, for the purposes of enforcement of this Agreement and the applicable ordinances.

c) VILLAGE shall be bound by all provisions of the wastewater treatment agreement (bulk rate) now in effect between AUTHORITY and the City of Kalamazoo, including the provision of said Agreement which permits the City of Kalamazoo to inspect all portions of the collection system located within the VILLAGE and premises thereto for the purposes of enforcement of said Agreement.

d) VILLAGE reserves the right and the power to construct its own sanitary sewer collection and/or treatment facilities upon such terms and conditions as it may determine appropriate. Village acknowledges and agrees that no extension, addition, expansion, or change shall be made in or to the AUTHORITY'S facilities within VILLAGE except upon prior written agreement by AUTHORITY, which shall not be unreasonably withheld.

5. The parties further agree that:

a) AUTHORITY shall bill and collect rates and charges from users located within VILLAGE in the same manner as it bills and collects charges from other users of its facilities; and

b) In order to comply with applicable provisions of law, VILLAGE agrees that it shall, by ordinance, establish a system of rates and charges for use of said facilities and for wastewater treatment (user charges) which shall conform in all respects to the rates and charges of MEMBER TOWNSHIPS as they now exist or are hereafter amended. User charges shall be retained by AUTHORITY to defray costs of operation, maintenance and replacement of its facilities, and costs of treatment, as compensation to AUTHORITY for the services provided to users within VILLAGE; and

c) AUTHORITY shall notify VILLAGE, at least ninety (90) days in advance of proposed changes in rates and charges to be imposed upon users for use of the AUTHORITY'S facilities within VILLAGE. Data substantiating the proposed changes shall be provided to VILLAGE in the same form as is provided to MEMBER TOWNSHIPS. VILLAGE acknowledges and agrees that AUTHORITY is required by relevant provisions of federal law to establish a system of user charges applicable to every user and user class (including users within VILLAGE) which insures that every user and user class pays its proportionate share of costs of operation, maintenance and replacement (including costs of treatment). In consideration of AUTHORITY'S agreement to permit

users within VILLAGE to use AUTHORITY'S facilities on the same basis as other users of AUTHORITY'S system, VILLAGE agrees to conform its ordinances establishing user charges to the rates and charges as established by AUTHORITY from time to time as required by federal law.

d) AUTHORITY shall provide to VILLAGE, in the same manner as it provides to its MEMBER TOWNSHIPS, notice of every meeting of the AUTHORITY board and copies of minutes of such meetings; and

e) AUTHORITY shall account to VILLAGE, at least quarterly, for all funds collected by AUTHORITY from users located within VILLAGE.

6. AUTHORITY shall certify each year to the VILLAGE by September 1 the names, addresses, and amounts of delinquencies of all accounts of users in VILLAGE that are six months delinquent, or more. VILLAGE agrees to place such amounts on the tax roll as provided for by law, or, in the alternative, to pay to the AUTHORITY the entire amounts certified within 30 days. In the event that such delinquencies are not paid to AUTHORITY within six months of placement on the tax roll, then the entire sum certified by the AUTHORITY as provided for in this paragraph shall be paid by VILLAGE to AUTHORITY.

7. AUTHORITY agrees that VILLAGE may, by ordinance, establish additional charges for public sanitary sewage disposal services over and above those which are to be billed, collected and retained by AUTHORITY under the provisions of this Agreement.

Such additional charges may be billed and collected by AUTHORITY subject to its option in conjunction with the other charges established pursuant to this Agreement, and shall be accounted for by AUTHORITY to VILLAGE. VILLAGE agrees that AUTHORITY shall be entitled to be reimbursed by VILLAGE for any additional costs involved in billing and collecting such additional charges.

8. AUTHORITY shall be permitted to use streets, highways, alleys and/or easements in VILLAGE for the purpose of constructing, maintaining, and operating wastewater system facilities to adequately serve VILLAGE and other areas. This consent is given in compliance with Article VII, Section 29, Michigan Constitution of 1963. AUTHORITY agrees to 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 AUTHORITY and shall not be operated or maintained by any persons other than employees of AUTHORITY or its authorized representatives.

9. AUTHORITY has undertaken to make this Agreement with VILLAGE in consideration of VILLAGE'S promises and of payment by VILLAGE of a portion of the costs of the collection system (public sanitary sewers and appurtenances) located within VILLAGE. Notwithstanding payment by VILLAGE of portions of the costs of such collection system (public sanitary sewers and appurtenances), same shall be and remain a part of the public

sanitary sewer system to be operated and maintained by AUTHORITY, and ultimately, to be owned by AUTHORITY.

10. VILLAGE agrees to save, defend, hold harmless and indemnify AUTHORITY, its MEMBER TOWNSHIPS, and their agents, officials and employees from any liability, claims, fines, costs or penalty of whatever form or kind, including but not limited to personal injury or property damage, arising out of any act or omission of VILLAGE or one or more of its officers, agents, employees, or departments, or of any customer or recipient of services therein.

11. AUTHORITY agrees to save, defend, hold harmless and indemnify VILLAGE, its departments, agents, officials and employees from any liability, claims, fines, costs or penalty of whatever form or kind, including but not limited to personal injury or property damage, arising out of any act or omission of AUTHORITY or one or more of its officers, agents, employees, or departments.

12. AUTHORITY will use reasonable diligence but does not guarantee uninterrupted service and shall not be liable for injuries or damages by such interruptions whether caused by defects in original construction, cave-ins, accidents, repairs, or other cause, nor shall AUTHORITY be liable to VILLAGE or any customer or other person, firm, or corporation for injuries or damages of any nature caused by the use of the collection facility operated and maintained by AUTHORITY or by the use of treatment facilities of the City of Kalamazoo, or by

interruptions therein.

13. This Agreement shall remain in full force and effect for a period of at least twenty (20) years from the date of issuance of bonds by the County of Kalamazoo to finance the project 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 unless bonds issued to finance the costs of the project have been paid off in full and thereafter, in the event of termination because of such a breach, no such termination shall take effect until after the expiration of six months following a written notice of such breach to the offending party, which notice shall specify how, in the opinion of the non-offending party, the breach can be corrected. If the breach is corrected as specified within the six month notice period, no termination shall occur.

14. VILLAGE may, at its option, at any time within the term of this Agreement, request to become a member municipality of AUTHORITY. VILLAGE shall not have voting rights on the Board of AUTHORITY until such time as VILLAGE becomes a member municipality of AUTHORITY, which by statute requires approval and consent by the Boards of each MEMBER TOWNSHIP.

15. Pursuant to its Agreement with the City of Kalamazoo, AUTHORITY has certain obligations and duties in connection with operation, maintenance, supervision, and control of use of the

wastewater collection system as it now exists or may hereafter be extended. Nothing in this Agreement shall be deemed to modify, amend, or interfere with said obligations and agreements of AUTHORITY. VILLAGE agrees that operation, maintenance, use, and extension of AUTHORITY'S wastewater collection system within the limits of VILLAGE, shall in all respects comply with the requirements of said Agreement between AUTHORITY and the City of Kalamazoo.

GULL LAKE SEWER & WATER AUTHORITY

Dated: June 27, 1991

By:

William B. Moore

Its

Chairman

VILLAGE OF RICHLAND, MICHIGAN

Dated: July 8, 1991

By:

Jack E. Gray
Its President

