

CITY OF KINGSTON
Office of Corporation Counsel
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Steven T. Noble, Mayor



Kevin R. Bryant, Corporation Counsel
Daniel Gartenstein, Asst. Corporation Counsel

July 17, 2020

Jason J. Kovacs, Esq.
PO Box 3356
Kingston, New York 12402

Re: Town of Ulster w/City of Kingston
Spring Lake Sewer District

Dear Jason:

Enclosed please find fully executed original Intermunicipal Agreement in the above captioned matter.

Very truly yours,

Kevin R. Bryant

/jkh
Encl.

**INTERMUNICIPAL AGREEMENT FOR THE SPRING LAKE SEWER DISTRICT BY
AND BETWEEN THE CITY OF KINGSTON AND THE TOWN OF ULSTER**

WHEREAS, the City's wastewater treatment facility has the capacity to handle this request for the estimated need of up to 15,000 gallons per day; and

WHEREAS, the Town of Ulster (hereinafter the "Town") agrees to compensate the City of Kingston (hereinafter the "City") for accepting and treating the Spring Lake Sewer District (hereinafter the "District") sewage; and

WHEREAS, this agreement is in the best interest of both the Town and the City.

NOW, THEREFORE, it is mutually agreed between the parties to this agreement that:

1. By duly adopted resolution of the Town Board of the Town of Ulster, and related legal proceedings, the Town will create the Spring Lake Sewer District for the construction and administration of a municipal sewer system within the boundaries of the district. The boundaries of said district are shown in Exhibit "A." The legal description of said district is shown in Exhibit "B."
2. The City hereby represents that it will accept the sewage from the Spring Lake Sewer District and authorizes its continued connection to the City sewer system and wastewater treatment facilities and further agrees to receive, treat and dispose of said sewage :from the District subject to the following conditions and limitations in this agreement. Said wastewater treatment plant is owned, maintained and supervised by the City.
3.
 - A. The cost of installing and maintaining the necessary conduits to carry sewage collected by the Town from the Spring Lake Sewer District, within the boundaries of the Town to the point of the approved connections with the City system, shall be borne entirely by said District.
 - B. The operation and maintenance expenses which the Town shall be responsible for shall consist of but not be limited to costs relating to water, chemicals, electricity, insurance, telephone, fuel oil, gas, plant personnel salaries as approved by the City Sewer Department, plant upkeep and repairs, maintenance of mechanical equipment and depreciation for the sewage treatment facility of the City as set forth in the Annual Budgets for the "G" funds of the City. These expenses shall be included in the sewer rate. Said sewage system to be constructed in the Spring Lake Sewer District shall be subject to the City's review and approval of the plan and design. Said plans shall also include the installation of metering devices to measure and record sewage flow from the Town into the City's system. The main connections to the City system shall be as designated on the construction drawings to be approved by the City. The City shall have approval over the method of

connections and flow measurements.

4. In consideration of the acceptance and treatment of Spring Lake Sewer District sewage from the Town by the sewage treatment facility of the City, the Town agrees to pay the City the following to defray a portion of costs of the operation and maintenance of said facility:

A. SEWAGE RATE

For the acceptance and treatment of the Spring Lake Sewer District sewage from the Town by the sewage treatment facility of the City, the affected property owners in the Spring Lake Sewer District will pay a rate not to exceed one and five hundredths (1.05) times the amount that is established as sewer processing rates for consumers within the limits of the City.

It is understood that the computation of the above charges is effective only as between the Town and the City under this Agreement and this Agreement and the above method of computation shall not preclude the Town from using other methods of computation or charges as between the Spring Lake Sewer District and the respective affected properties within the District.

5. The City's treatment plant is designed at 6.8 mgd and the average daily sewage flow of the City is 5± mg and the average daily flow anticipated from the Spring Lake Sewer District will be 0.015 mgd. The City reserves for the Town a maximum of 15,000 gallons daily flow from the total capacity of this treatment plant. This reservation may be increased or reduced based upon experience and current engineering practices and upon mutual agreement by both parties. The maximum limitations on flow are as follows: 15,000 gallons per day on a monthly average flow. No storm drainage will be accepted into the City's sewer system
6. The Town shall provide insurance naming the City as the additional insured to protect the City against loss or damage to its facilities and against all liabilities, judgments, costs, damages, expenses and attorney's fees for loss damage or injury to person or property resulting in any manner from the operation or failure of the Town's Spring Lake Sewer District sewer facilities, the construction of the District's facilities and the connection of the District to the City's system which shall include the following coverages:
 - i A Separate Owner's protective Policy;
 - ii. Comprehensive General Liability Policy;
 - iii. Comprehensive Automotive Liability Policy;

iv. Workmen Compensation and Disability Benefits.

7. A. The Town agrees to indemnify and hold harmless the City from any and all judgment damages, liabilities or legal defense costs arising out of the Town's performance of this agreement. The Town agrees to indemnify and hold harmless the City in the event of an illegal discharge or connection due to its negligence. The Town also agrees to indemnify and hold harmless the City from litigation that might be brought challenging the validity or legality of this agreement. The City shall use reasonable diligence to provide regular uninterrupted acceptance, transportation and treatment of sewage from the Town, but shall not be liable to the Town for damages, breach of a contract or otherwise for failure, suspension, diminution or other variations of service occasioned by any cause beyond the control of the City. Such cause may include, but is not restricted to, acts of God or of the public enemy, act of the Government in its sovereignty or contractual capacity, fires, floods, epidemics, riots, civil disturbance, quarantine restrictions, inability to obtain equipment or supplies, strikes, failure or breakdown of facilities.
- B. The City agrees to indemnify and hold harmless the Town from any and all judgment damages, liabilities or legal defense costs arising out of the City's performance of this agreement. The City agrees to indemnify and hold harmless the Town in the event of an illegal discharge or connection due to its negligence. The City also agrees to indemnify and hold harmless the Town from litigation that might be brought challenging the validity or legality of this agreement
8. Prior to the connection of the Spring Lake Sewer District, the Town shall adopt a sewer use ordinance consistent with the City's Sewer Use Ordinance subject to approval by the City. The City reserves the right to sample any wastewater/sewage at any time within the District.
9. A. If during the term of this agreement, the Town's flow exceeds the permitted maximum capacity of 15,000 gallons per day and the City plans an expansion to accommodate this increased flow, the Town hereby agrees to pay its proportionate share of said expansion. The City shall not be obligated to construct sewer or treatment facilities to accommodate any increased needs of the Town above the 15,000 gallons per day. In the event it shall be necessary in the City's sole discretion to upgrade the treatment plant in capacity, process or otherwise, based upon governmental order or regulatory changes or upon current engineering practices, the capital cost of such upgrade shall be included in the annual rate for processing waste for all customers. If such upgrade is necessitated by major development or regulatory changes in the District or for District occupants, the cost of such upgrade shall be charged entirely to the Town and the Town shall also be responsible for any additional operating and maintenance expenses

associated with said upgrade. If the Town's needs exceed 15,000 gallons per day, both the City and the Town shall negotiate an additional capital contribution to be made by the Town to compensate for said increase whether or not an upgrade is required to accept the increase.

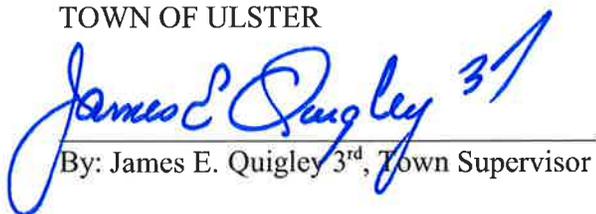
- B. The Town's sewage capacity will be calculated on a monthly basis averaging the daily sewage flow measurements for that month. Peak flow rates shall not exceed 16 gallons per minute (1.5 x); If, after three consecutive days, the Town's daily sewage flow measurements exceed the peak flow rate, the Town's sewer rate for the month in which the three consecutive excessive days took place shall be 200% of the standard sewer rate at said time. The City shall notify the Town in writing within ten (10) days of any consecutive three-day period of excessive flow rates. The Town shall provide a written report within fourteen (14) days of the origin causing the excess flows with a plan to provide for corrective action.
 - C. The Town will be required to install a flow meter for the purpose of quantifying the flows generated from the Sewer District. The flow measuring device shall be installed at a location to measure and record the actual amount of flow into the municipal waste water collection system. Said flow meter and or measuring device shall be of a type and design acceptable upon review of the City Engineer and shall be installed, maintained and periodically tested as required by the City Engineer, at the owner's expense.
10. The Town may expand and/or change the boundaries of the Spring Lake Sewer District at their discretion so long as the total maximum daily flow of the District does not exceed 15,000 gallons. The Town must notify the City of any boundary changes to said District.
 11. In the Washington Avenue Sewer District Agreement of 2002, an initial one-time capital contribution of \$300,000.00 was made by the Town for its infrastructure. Since it is anticipated that the Spring Lake Sewer District will utilize a portion of the Washington Avenue Sewer District capacity, it is understood that the City in its discretion may use the capital contribution toward the service provided to the Spring Lake Sewer District
 12. The parties hereby agree to comply with all the rules and regulations of the United States, New York State and the City pertaining to sewage delivery and treatment, including the SPDES permit, if applicable.
 13. This agreement may be amended, modified, or canceled by mutual agreement of the parties in writing and approved by the Comptroller of the State of New York if required.
 14. Neither party shall assign, transfer or convey this agreement or any part thereof, or any interest therein without the consent in writing of the other.

15. All notices pertaining to this agreement shall be in writing and shall be served personally or by certified mail, return receipt requested, addressed as follows:
 - A. Mayor, City of Kingston, 420 Broadway, Kingston, NY 12401;
 - B. Supervisor, Town of Ulster, 1 Town Hall Drive, Lake Katrine, NY 12449.
16. This agreement shall run for a period of 30 years from the date of its execution and is renewable for two (2) 30-year periods at the option of either party upon the same terms and conditions.
17. The agreement shall be specifically conditioned upon the commencement of the approved project within five (5) years from the date of this agreement.
18. The City shall provide the Town with reasonable operational data on a monthly and quarterly basis concerning the sewer treatment plant facilities and sewer system utilized by the City and Town; specific operational data shall be agreed upon. In addition, the City shall provide the Town with the Annual Budgets and quarterly financial reporting comparing actual results to the budget for the "G Funds" covering the sewer treatment plant facilities and sewer system. Additional reasonable financial information shall be made available upon request by the Town.

CITY OF KINGSTON


By: Steven T. Noble, Mayor

TOWN OF ULSTER


By: James E. Quigley 3rd, Town Supervisor

