

AMENDMENT
TO THE
2000 WASTEWATER AGREEMENT

This Amendment to the 2000 Wastewater Agreement (“Amendment”) is made and entered into as of the latest date set forth below, by and among the City of Fond du Lac, the Village of North Fond du Lac, the Town of Fond du Lac, the Town of Fond du lac Sanitary Districts Nos. 2, 3, 4 and 6, the Town of Empire, the Town of Empire Sanitary Districts No. 1, 2, and 3, the Town of Taycheedah, Johnsburg Sanitary District, the Town of Taycheedah Sanitary District Nos. 1 and 3, the Town of Friendship, the Consolidated Sanitary District No. 1 of the Towns of Friendship and Black Wolf, the Town of Friendship Sanitary District No. 2, the Town of Calumet, and the Town of Calumet Sanitary District No. 1 (collectively, the “Parties”).

WHEREAS, the Parties have entered into an agreement entitled the 2000 Wastewater Agreement Between City of Fond du Lac, Wisconsin and Outlying Sewer Group (“Agreement”); and

WHEREAS, the Agreement determines the applicable sewer rates for each year by using a budget estimate process followed by an annual true-up process. These provisions are found at Sections 10.2, 10.3 and 10.4 of the Agreement; and

WHEREAS, the parties wish to eliminate the budget estimate process described in Section 10.2 of the Agreement by replacing it with the annual true-up process described in Section 10.3 of the Agreement; and

WHEREAS, the parties wish to make any other revisions to the Agreement to reflect the changes described above; and

WHEREAS, the parties have determined that the changes described above would both simplify the annual budget process and reduce costs. This change will also reduce the degree of rate fluctuations from year-to-year;

NOW, THEREFORE, in consideration of the above recitals, which are contractual, and for other good and valuable consideration, the receipt of which is acknowledged by the parties, the parties agree as follows:

1. Amendment to Section 10.2. Section 10.2 in the Agreement is hereby amended, as follows:

~~10.2 RATES DESIGNED USING BUDGETED EXPENSE AND ESTIMATED FLOW
AND POLLUTANT LOADINGS THE ANNUAL TRUE-UP RATES~~

~~The rates for each year are determined using the adopted budget level of expenses for that
give year. The budget based rates are determined using sewage volumes for the most~~

recent 12-month period, and the pollutant strength used to calculate pounds of BOD, TSS, P, NH₃, N, or other pollutant is the average strength for the most recent 3-year (36-month) period. The 3-year average is used to calculate pollutant strengths for the WPCP influent and for all customers, both City and non-City. The budget-based rates are applied to actual metered flows and calculated pounds of pollutants using the average strength for each pollutant component as determined at the time the budget-based rates were established. The rates for each year are determined using the annual true-up calculations determined pursuant to Section 10.3, below. The annual true-up rates shall become the rates in effect for billing purposes until the next annual true-up, unless sanitary sewer rates are revised for all customers between true-ups. **[Note: The stricken language above is the current language of Section 10.2 that will be deleted as a result of this Amendment.]**

2. Amendment to Section 10.3. Section 10.3 in the Agreement is hereby amended, as follows:

10.3 ANNUAL TRUE-UP

The total annual charge for sewer service must be adjusted with an annual true-up. After each calendar year, bills to all Parties must be recalculated using rates based on actual customer flows and actual expenses. The true-up rates must be determined using actual sewage volumes during the calendar year corresponding to the actual expenses during that same calendar year. For purposes of developing true-up rates, the pounds of pollutants are calculated using the actual sewage flow applied to the trailing 3-year average sewage strength ending December 31 of the year. The difference between ~~budget-based~~ **the bills calculated pursuant to Section 10.2, above,** and **the** actual-based bills must appear as a line item adjustment to a Party's first quarter bill for the subsequent year. If actual figures are unavailable in time to make the true-up adjustment on the first quarter bill, then it must be made on the second quarter bill.

3. Amendment to Section 10.4. Section 10.4 in the Agreement is hereby amended, as follows:

10.4 CONSISTENT APPLICATION OF COST ALLOCATIONS

The cost allocation methodology as set forth in detail in the Technical Guidance Manual must be applied in a consistent and uniform manner in the determination of ~~both budget rates and true-up rates.~~ In order to preserve the equitable recovery of costs over time, changes in the cost allocation factors may be required from time to time due to changes in treatment process, additional or changed regulatory requirements, or other unknown conditions. Any proposed changes in the cost allocation factors or methodology must be presented to the Technical Standards Committee for review and approval.

4. Entire Agreement. This Amendment, together with the Agreement, contains the entire understanding and agreement between the Parties hereto with respect to the subject matter

hereof and supersedes all previous communications, negotiations, and agreements, whether oral or written between the Parties with respect to such subject matter. Any oral representation or modifications concerning this Amendment or the Agreement shall be of no force and effect.

5. Modification of Agreement. Except as expressly set forth herein, no other amendment of the Agreement is intended hereby and all terms and conditions of the Agreement not expressly amended herein shall remain in full force and effect.

6. Counterparts. This Amendment may be executed in counterparts, each of which shall be deemed an original. In addition, facsimile or digital "pdf" signatures shall be deemed originals for all purposes hereunder.

CITY OF FOND DU LAC

By: _____

Date

Attest: _____

Date

[This area left blank intentionally.]