

Ordinance No. 10- 31

**AN ORDINANCE APPROVING AN
INTERGOVERNMENTAL COOPERATION AGREEMENT**

*BE IT ORDAINED BY THE SOUTH SANGAMON WATER COMMISSION, AS
FOLLOWS:*

SECTION 1: That Intergovernmental Cooperation Agreement between the Springfield Metro Sanitary District and the South Sangamon Water Commission, a copy of which is attached hereto, is hereby approved.

SECTION 2: The Chairman of the Commission is authorized and directed to approve said contract on behalf of the Commission, and the proper officers of the Commission are authorized and directed to carry out the agreement by its terms.

SECTION 3: This Ordinance is effective immediately.

PASSED this 31 day of August, 2010.



CHAIRMAN

ATTEST:



Village Clerk

AYES: Pfeffer Hall McCard
NAYS: None
PASSED: 8/31/2010
APPROVED: 8/31/2010
ABSENT: None

AN INTERGOVERNMENTAL COOPERATION AGREEMENT
BETWEEN THE SOUTH SANGAMON WATER COMMISSION AND
THE SPRINGFIELD METRO SANITARY DISTRICT

This Agreement made this _____ day of _____, 2010, by and between the South Sangamon Water Commission, a municipal corporation in the County of Sangamon and State of Illinois (Commission), and the Springfield Metro Sanitary District, incorporated and organized under the laws of the State of Illinois (District), with respect to the acceptance and treatment of a brine laden waste water stream resulting from the Commission's proposed potable water treatment plant.

This Agreement is made by authority of Article 7, Section 10 of the Illinois Constitution of 1970, and Section 5 of the Illinois Intergovernmental Cooperation Act (5 ILCS 020/1 et seq.).

WHEREAS the Commission shall construct, own and operate certain facilities for the purpose of potable water treatment, and

WHEREAS, the Commission's operations will result in a brine laden waste water stream which the Commission will ultimately discharge through various outfalls pursuant to Permits issued by the Illinois Environmental Protection Agency (IEPA), and

WHEREAS, the Commission will need to transfer certain of its brine laden waste waters to the District for purpose of properly treating the brine laden waste waters, and

WHEREAS, the Commission has identified that high concentrations of brine will be present in said certain waste water streams produced by the Commission's potable water treatment plant, and

WHEREAS, the Commission is unable to properly dilute such high concentrations of brine, and

WHEREAS, the Commission has attempted to identify a technically and economically feasible method to treat these brine laden waste water streams to dilute the brine concentrations without success, and

WHEREAS, the Commission has approached the District regarding a proposal to discharge these brine laden waste water streams to the District for treatment at its Spring Creek Waste Water Treatment Facility, and

WHEREAS, the District is willing to accept such brine laden waste water streams provided the District can specify points at which the brine laden waste water streams will be introduced into the District's system to allow the District to properly dilute the brine waste water streams, and

WHEREAS, the District is willing to accept such brine laden waste water streams provided the District can specify when and where the Commission must install chemical feed sites and other facilities as necessary to ensure proper wastewater and odor treatment, and

WHEREAS, the District is willing to accept the Commission's brine laden wastewater streams in accordance with the following terms and conditions of this Agreement.

NOW THEREFORE, it is agreed as follows:

1. The Commission shall install at its cost all facilities necessary to deliver the above-described brine laden waste water streams to the District facilities at a location within the Village of Chatham, Illinois set forth in Exhibit A hereto, or such other locations as may be agreed by the parties from time to time. This entails the following:

a. The Commission shall secure all necessary rights and easements to construct and operate a sewer main between the above described locations.

b. The Commission is responsible for the construction, operation, and maintenance of said sewer main.

2. The Commission at its cost shall install any additional chemical feed sites or other facilities as specified by the District, needed for the District's system for the purpose of treating the Commission's wastewater stream and for controlling odors that might be anticipated to emanate after the Commission's wastewater stream enters the District's system.

3. The Commission at its cost shall install any necessary sewer lines, other sewer facilities, and corrosion resistant manholes as specified by the District for the transportation of the brine laden waste water stream to the District's sewers.

4. The Commission shall take all steps necessary to timely apply for a Pre-treatment permit and to be approved by the District to be a Pre-treatment customer of the District, and shall comply with all provisions of the District's Pre-treatment Ordinance at all times.

5. The Commission shall pay the District for its treatment of such brine laden waste water streams in accordance with the District's applicable rate schedules, which are subject to change without notice. The initial rate schedule is set forth in Exhibit B.

6. To the extent allowable by law, the Commission shall defend and hold harmless the District against any and all claims, demands, and causes of action arising out of or connected with this Agreement, including but not limited to any action or claim brought against the District by reason of exceedances caused by the brine laden waste waters that are the subject of this Agreement, and shall indemnify the District for any

costs, expenses, fines, or damages resulting therefrom (including all court costs, fees, and reasonable attorneys' fees), except where such claims arise out of the gross negligence or willful misconduct of the officers, agents or employees of the District.

7. This Agreement shall take effect upon its approval by the corporate authorities of the parties. The initial term of this Agreement shall be 25 years from the date of its execution. Thereafter, this Agreement shall automatically renew for additional and successive periods of 5 years each, unless at least 2 years prior to the expiration of the original or any expiration term, one party gives written notice of nonrenewal to the other. In addition, either party may choose to terminate this agreement at any time without cause by at least 2 years prior written notice to the other party.

8. Should subsequent operational problems arise after the Commission begins to deliver the brine laden waste water streams to the District as provided herein that are directly related to and caused by the characteristics of the Commission's brine laden waste stream, and exclusive of normal wear and tear of the District's facilities and equipment, the Commission and District shall mutually work together to implement a mutually agreed to solution to remedy such problems within 90 days. If such a conclusion cannot be reached, this Agreement will continue for one (1) year from when the problem arises and both parties are made aware of such problem in writing to allow the Commission to identify and initiate implementation of an alternative to this Agreement for its discharge hereunder to the District, or to remedy such problem in a manner agreeable to the District.

9. In the event that one Party believes the other to be in default under this Agreement, that Party acting through its chief executive officer shall notify the other Party in writing and allow the other Party sixty (60) days from the date of receipt of the notice to cure the default, or if the default is the Commission's failure to pay the District's just charges, the cure period shall be thirty (30) days. If the default is not timely cured, the Party having sent the notice of default may terminate this Agreement by serving written notice on the other Party. The nondefaulting party shall give the defaulting party reasonable extensions of the cure period in the event the default is related to equipment or facilities failures and additional time is required to cure such failures. No waiver of any default will be implied by the failure of either Party to give notice of default, and no express waiver will affect any other default except the one specified in the waiver.

10. Any notice or communication permitted or required under the Agreement must be in writing and will become effective on the day of mailing thereof by first class mail, registered or certified mail, postage prepaid, addressed to:

If to District to:

Springfield Metro Sanitary District
Attention: Director/Engineer

If to Commission to:

South Sangamon Water Commission
c/o Village of Chatham

3017 North Eighth Street
Springfield, IL 62707

116 E. Mulberry
Chatham, IL 62629

With a copy to:

With a copy to:

Justin Reichert, SMSD Counsel
Stratton & Reichert, P.C.
725 S. Fourth St.
Springfield, IL 62703


John Myers, Commission Attorney
Rabin, Myers, & Hanken
1300 S. Eighth Street
Springfield, IL 62703

The parties may change the addresses set forth in this paragraph from time to time by notice to the other.

11. This Agreement is binding upon the successors and assigns of the District and the Commission and their respective governing bodies.

12. This Agreement may not be amended except by means of written document, including an addendum, signed by authorized representatives of both the District and the Commission and approved by their respective corporate authorities.

SOUTH SANGAMON WATER COMMISSION

By:  _____
Its Chairman Date

Attest:  _____
Its Clerk

SPRINGFIELD METRO SANITARY DISTRICT

By: _____
Its President Date

Attest: _____
Its Clerk

ORDINANCE CERTIFICATE

STATE OF ILLINOIS)
) SS
COUNTY OF SANGAMON)

I, the undersigned, do hereby certify that I am the duly qualified and acting Clerk of the South Sangamon Water Commission.

I do further certify that the ordinance attached hereto is a full, true, and exact copy of Ordinance No. 10- 31, adopted by the Commission on the 31 day of August, 2010, said Ordinance being entitled:

**AN ORDINANCE APPROVING AN
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I do further certify that prior to the making of this certificate, the said Ordinance was spread at length upon the permanent records of said Commission, where it now appears and remains.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of said Commission this 31 day of August, 2010.



Clerk