

EXECUTION COPY

FOURTH AMENDMENT TO SEWAGE COLLECTION AND TREATMENT
AGREEMENT BETWEEN THE SANITARY DISTRICT
OF THE CITY OF HAMMOND, INDIANA, AND
TOWN OF GRIFFITH (CUSTOMER CITY)

This Fourth Amendment is made and entered into this 5th day of Dec, 2023 by and between the Sanitary District of the City of Hammond, Indiana (the "District"), and the Town of Griffith, Indiana ("Customer City") (collectively, the "Parties").

RECITALS

1. The District owns and operates a publicly owned treatment works ("POTW") for the collection and treatment of sanitary sewage wastewater.
2. Customer City has, for many years, transmitted, and the District has received, Customer City's wastewater which has been treated at the POTW. Customer City desires to continue to transmit its locally generated wastewater to the District for collection and treatment, and the District is willing to continue to provide that service to Customer City upon the terms and conditions stated herein.
3. The District and Customer City first entered into an agreement for sewage collection and treatment on May 17, 1994. HSD and Customer City amended the original agreement in 1995 and 1997 (collectively, the "Agreement") to give Customer City the right to transmit wastewater to HSD in a volume equal to an instantaneous flow rate of 5.5 million gallons per day ("MGD"), but pump at a higher rate from time to time unless HSD informs Customer City it cannot do so.
4. On November 15, 2016, the District and Customer City entered into a Binding Letter of Intent & Settlement Agreement (the "LOI") to memorialize their mutual understanding concerning outstanding claims between the Parties. Under the LOI, the District and Customer City agreed to several obligations that became immediately binding, including payments by Customer City for prior capital improvements, "True-up" payments, and an "interim rate" pending completion of a cost-of-service study. The District also agreed to review and approve capacity certification applications from Customer City in the normal course and in accordance with applicable laws and procedures. These obligations, which are provided in Sections 1(a)-(e) of Exhibit A, are incorporated herein.
5. The Parties also agreed that they would work in good faith to negotiate the terms of a Third Amendment to the Agreement to address allocation of Long-Term Control Plan ("LTCP") capital costs, a cost-of-service study to set future rates, procedures for when Customer City exceeds its instantaneous flow rate of 5.5 MGD, and cooperation regarding engineering issues associated with Customer City's compliance with SSO remediation efforts.
6. The Parties agreed that the LOI would continue in effect until the Parties executed a Third Amendment to the Agreement, with the caveat that the "Immediately Binding Terms" in the LOI would survive the Third Amendment.

7. On September 18, 2020, HSD submitted a LTCP for the control of Combined Sewer Overflows (“CSOs”), subject to United States Environmental Protection Agency (“EPA”) and Indiana Department of Environmental Management (“IDEM”) approval. On March 17, 2021, EPA and IDEM conditionally approved HSD’s LTCP. A schematic of the District’s Selected Alternative for the LTCP is shown as Exhibit B.

8. As part of the next phase of HSD’s LTCP, HSD has proposed constructing a Cloth Disk Media Filter (“CMDF”) and new force main and installing additional Kennedy Ejector Pumps in the southeast quadrant of its system (collectively known as “the Southeast Quadrant Projects”), which will enable HSD to accept an instantaneous max peak flow of up to 15.5 MGD from Customer City during wet weather events so Customer City can comply with its Consent Decree entered on April 7, 2022 and approved by the court on December 9, 2022 in the matter *United States of America et al v. Sanitary District of Highland*, and the *Town of Griffith, Indiana*, Civil Action No. 2:22-cv-00086. Additional improvements will also be required to HSD’s POTW after completion of the Southeast Quadrant Projects.

9. Contemporaneous with this Fourth Amendment, the Parties entered into a Third Amendment to the Agreement to increase the amount of wastewater that Customer City can transmit to the District from 5.5 million gallons per day (“MGD”) to 8 MGD.

10. The Parties now desire to further amend the Agreement with this Fourth Amendment consistent with the foregoing events and conditions.

COVENANTS

NOW, THEREFORE, in consideration of the recitals and other mutual obligations and promises of the Parties herein expressed, the District and Customer City do agree as follows:

1. A new Section 4.F of the Agreement shall be added to include the following:

4.F Customer City shall purchase a future increase to the amount of wastewater that it has the right to send to the District by an additional 7.5 MGD for a new maximum Instantaneous Flow Rate of 15.5 MGD to permit Customer City to comply with the terms of Customer City’s Consent Decree with EPA and IDEM regarding Customer City’s SSO remediation efforts, which irrevocably obligates Customer City to pay to the District:

(1) \$2,017,500 of increased capacity charges due upon the District’s written notice to Customer City of completion of the Southeast Quadrant Project. This amount shall be in addition to all other amounts due to District pursuant to the Agreement, as amended.

(2) \$2,139,233, which is the allocated portion of the cost of debt service payments to construct the Southeast Quadrant Projects for Griffith to increase the wastewater sent to the District from 8 to 15.5 MGD, as provided in Exhibit C (the “15.5 MGD Capital Costs”) by depositing the \$2,139,233 into an escrow account (the “Escrow Account”) not later than the date the District awards a construction contract for the Southeast Quadrant Projects. Upon receipt by the District of construction cost estimates from a qualified professional for the Southeast Quadrant Projects, the District shall notify the Customer City of the maximum anticipated amount of the Customer City’s required contribution for such project. The Customer City shall

then have one hundred twenty (120) days in which to complete all authorizing actions for the issuance of its bonds (other than the actual sale thereof) to fund such contribution. The District shall schedule the receipt of construction bids to occur after such one hundred twenty (120) day period. Within thirty (30) days after the District receives construction bids for the project and provides the Customer City with the Customer City's actual allocable share (which shall occur prior to the District's award of the construction contract for the project), Customer City shall sell and issue its bonds in an amount that generates net proceeds sufficient to fund its contribution and deposit such net proceeds into the Escrow Account. Customer City shall receive a pro rata credit for any reduction in the cost of the Southeast Quadrant Projects. If District receives grant funding for any portion of the Southeast Quadrant Projects, Customer City shall receive a pro rata credit for the amount of the grant funding. After construction of the Southeast Quadrant Project, the District shall submit a notice to Customer City reconciling the estimated and actual construction costs of the project, and indicate either a debit or credit from Customer City, which shall be paid by the Customer City or the District within 180 days of the notice.

(3) **Final LTCP Plans.** The District shall continue to be bound by, and the Customer City shall retain its rights to, Section 6.A.2d of the Second Amendment to the Agreement regarding submission of final plans regarding the Southeast Project Quadrant Projects and the Customer City's right to reply or object, as provided by the Agreement dated May 17, 1994 by and between the Sanitary District of Hammond and the Town of Griffith. In the event that the District is granted an extension to complete the Southeast Quadrant Projects contained in the District's Consent Decree or approved LTCP Plan, the District agrees to work in good faith to amend the Customer City's payment obligations for the Southeast Quadrant Projects accordingly.

(4) The Customer City's right to send instantaneous max peak wastewater flow above 8.0 MGD (up to 15.5 MGD) to the District pursuant to this Amendment shall not become effective until: (a) the District has provided to Customer City notice that it has completed construction of the Southeast Quadrant Projects and it ready to accept the additional flow from Customer City, which notice shall be provided by the District in writing no later than 30-days prior to the date thereof, and (b) the Customer City fully satisfies its obligations under 4.F of the Agreement, as added by this Fourth Amendment.

2. This Fourth Amendment does not amend any other provisions of the Agreement, including that the term of the Agreement shall be until December 31, 2043.

TOWN COUNCIL OF THE
TOWN OF GRIFFITH, INDIANA

President

Member

Member

Member

Member

ATTEST: _____

SANITARY DISTRICT OF THE
CITY OF HAMMOND, INDIANA

ATTEST: _____