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& addition to facility*

AGREEMENT ^I
BINGHAMTON - JOHNSON CITY
JOINT SEWAGE PROJECT

This agreement, dated July 14, 1965, between the CITY OF BINGHAMTON, a municipal corporation of the County of Broome and State of New York, and the VILLAGE OF JOHNSON CITY, a municipal corporation of the County of Broome and State of New York,

WITNESSETH as follows:

1. Pursuant to Article 5G of the General Municipal Law, the CITY OF BINGHAMTON (hereinafter referred to as the "City") and the VILLAGE OF JOHNSON CITY (hereinafter referred to as the "Village") hereby establish a joint sewage project. This project shall be administered by a board hereby established to be known as BINGHAMTON-JOHNSON CITY-JOINT SEWAGE BOARD (hereinafter referred to as the "Board"). The Board shall operate a jointly owned sewage treatment plant and related facilities. The sewage treatment and pumping plant presently located in the Town of Vestal, Broome County, New York, and owned by the City shall, upon the 13th day of August, 1965, or such other date as the parties may agree, become jointly owned by the City and the Village. The details of the transfer of ownership are more specifically set forth in section 8. After the transfer of ownership of such plant, certain capital improvements shall be made to such plant and such capital improvements shall also be jointly owned. In addition, a terminal pumping station serving the Village shall be constructed in the Town of Vestal at a point in the trunk sewer line of the Village, and this station shall also be jointly owned. The details of the construction of such capital improvements shall

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be governed by sections 2 and 3. The proportions in which the parties shall jointly own the facilities encompassed in the project shall be as set forth in section 5. The project shall not include any trunk sewer lines except those on the sewage treatment plant premises, nor shall it include the force main to be constructed by the Village from the proposed terminal pumping station to the sewage treatment plant site.

2. As part of the project, both municipalities shall ~~construct~~ the following facilities:

(1) Improvements to the existing sewage treatment plant, to consist of settling basins and chlorine detention tank; thickeners and sludge pumping station; grit chamber; and miscellaneous work; and

(2) Terminal pumping station to serve the Village.

This construction is set forth in a report of Clinton Bogert Associates dated June 1964, and entitled "Joint Disposal of Sewage for the Village of Johnson City and the City of Binghamton".

The Village shall be the responsible construction agent for such construction.

3. The Village at its expense shall construct the following facilities:

Force main and any interceptor sewer extensions that are necessary to make its sewer system complete to the existing sewage treatment plant site.

This construction is set forth in a report of Clinton Bogert Associates dated June 1964, and entitled "Joint Disposal of Sewage for the Village of Johnson City and the City of Binghamton".

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Final Agreement

4. This agreement shall be effective for forty (40) years from the date hereof. It shall be automatically renewable for twenty (20) year periods, unless one party gives written notice of termination signed by its chief executive officer by personally serving such notice upon the clerk of the other party at least one year prior to the end of the original term or of any renewal term.

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5. Title to all real property and improvements thereon, including existing sewage treatment and pumping plant and proposed construction, as described in section 2, shall vest in the parties hereto as tenants in common in the following proportions:

54.8%

The CITY OF BINGHAMTON, an undivided fifty-four and eight tenths per cent (54.8%) interest;

45.2%

The VILLAGE OF JOHNSON CITY, an undivided forty-five and two tenths per cent (45.2%) interest.

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6. The Board shall retain a consulting engineer for the planning and supervision of the construction described in section 2. Such consulting engineer shall first be approved by each party by at least a majority vote of the voting strength of its governing board. The design, type and specifications of the construction described in section 3 shall be approved by the consulting engineer for the Board and by the City Engineer.

7. Capital costs for the construction described in Section 2 shall be paid by the parties in the following proportions:

The CITY OF BINGHAMTON, fifty-four and eight tenths per cent (54.8%);

The VILLAGE OF JOHNSON CITY, forty-five and two tenths per cent (45.2%).

Items of
Facilities
Cost

Capital costs shall include the following:

A. Net worth of existing sewage treatment and pumping plant as of January 1, 1965.

B. Cost of construction of facilities described in section 2.

C. Cost of equipment and furnishings in connection with such construction.

D. Cost of professional engineering fees in connection with such construction.

E. Cost of preliminary planning fees in connection with the Project, including the sum of \$5,000 paid by the Village to Clinton Bogert Associates prior to the execution of this agreement.

F. Such other expenses as are ordinarily connected with the construction of the facilities described in section 2.

Capital costs shall not include the internal sewer systems of the parties or any part thereof other than those parts specifically named above.

8. As of the 13th day of August, 1965, the sewage treatment and pumping plant presently owned by the City, together with the land and all furnishings and equipment, shall be conveyed to the joint ownership of the City and the Village in proportions as set forth in section 5. The net worth of the facilities to be transferred as of such date is agreed to be \$2,784,146.00. As of such date the Village shall pay to the City the sum of Five Hundred Fifty Thousand Dollars (\$550,000). In addition, as further consideration for its ownership rights in the present plant and the proposed improvements, the Village shall pay the cost of construc-

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tion of the proposed improvements described in section 2, including the cost for interest during construction. [Should the capital costs listed in section 7 exceed the amount of \$1,764,600.00, 54.8% of the difference shall be paid by the City to the Village. Should such capital costs be less than the amount of \$1,764,600.00, 54.8% of the difference shall be paid by the Village to the City.]

9. In the event that it is necessary for the Village to conduct a referendum for the approval of this agreement or of a bond issue to finance payments to be made under this agreement, the Village will conduct such referendum within the shortest period permitted by law, insofar as practicable.

10. The Village shall issue bonds to finance the payment to the City and the cost of construction of the proposed improvements to the sewage treatment plant, as such payment and cost are more particularly described in section 8. Such bonds shall be obligations of the Village only, and the City shall have no obligations whatsoever in connection with such bonds.

11. The cost of capital improvements, other than those listed in section 7, and not to include repair or replacement of existing facilities, shall be paid by the parties in such proportions as may be determined by a consulting engineer retained to establish proper proportions of contribution based upon prospective use of such capital improvements as of the date of determination of such proportions. In establishing such proportions, the consulting engineer shall follow the same principles, as far as practicable, as were followed by Clinton Bogart Associates in

establishing the proportions of contribution of initial capital cost in the report dated June 1964, and entitled "Joint Disposal of Sewage for the Village of Johnson City and the City of Binghamton" and supplemental reports dated July 22, 1964 and September 29, 1964.

However, the Board shall have the right to include in its budget such costs of capital improvements as it may determine, apportioned as it may determine, provided such apportionment, at the time the parties approve the budget, is accepted by each municipality by a majority vote of the voting strength of its governing body.

12. Operating costs, including repair and replacement of existing facilities, shall be paid by the parties in the same proportions as set forth in section 7 for payment of capital construction costs, with the following exceptions:

(1) The cost of electrical power for pumping raw sewage at the plant shall be paid by the City.

(2) The cost of electrical power for pumping raw sewage at the terminal pumping station serving the Village shall be paid by the Village.

(3) The cost of other electrical power and the cost of chemicals shall be allocated as follows: The Board shall measure the total annual flow during the previous year from each party, and shall apportion the cost of such other electrical power and of chemicals to each party in the ratio that the flow from each party is to the total flow. Measurement for this purpose for the first year shall com-

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mence on the day that sewage from the Village reaches the plant, and shall terminate on the 30th day of the following June. Measurement for this purpose in subsequent years shall commence on the 1st day of July and shall continue for one year ending on the 30th day of June. The apportionment of such costs shall be determined by the Board and reported to the parties on or before the 1st day of August following the termination of the measurement period. If both parties have not formally agreed to such apportionment on or before the 15th day of September following, the Board shall retain a consulting engineer having no other interest in the subject matter, who shall determine the apportionment on or before the 15th day of October following, and his determination shall be final. The flow shall be measured by means of Parschall flumes provided at the sewage treatment and pumping plant between the grit chambers and the settling basins.

Apportionment of operating costs shall commence concurrently with the start of permanent operations of the terminal pumping station serving the Village.

13. ~~The~~ fiscal year of the Board shall be January 1 to December 31. The Board shall, on or before September 1st of each year, adopt a budget for the next fiscal year and submit it to the budget officer of each of the parties. The governing body of each of the parties shall adopt the budget on or before October 15th of each year, except that, if either party has a fiscal year which does not coincide with the fiscal year of the Board, such party shall accept rather than adopt the budget. The budget shall consist of an itemization of receipts and

expenditures, including an item for contingencies.

14. Budget assessments shall be paid to the Board by the parties in a series of twelve (12) equal installments payable on or before the first day of each month of the fiscal year of the Board. The fiscal officer of the Board shall compute the total amount of the budget, based upon the proportion of assessments as determined under the provisions of sections 11 and 12; shall compute the amount of each monthly installment to be paid by each of the parties; and shall file his warrant with the clerk of each party on or before December 1st of the year preceding the fiscal year of the Board. Such warrant shall indicate the total assessment to be paid by the party, and the amount of each of the twelve monthly installments.

If, during the fiscal year, the receipts as estimated in the budget, together with the assessments paid by the parties, including any deficiency assessments, shall be insufficient to meet the expenses estimated in the budget, the Board shall adopt a deficiency budget, and the fiscal officer shall make such additional assessments as may be necessary in the same manner as set forth above for the annual budget, except that deficiency budget assessments shall be paid by the parties in a series of equal installments on the first day of each remaining month of the fiscal year.

15. The Comptroller of the City shall be the fiscal officer of the Board. In addition to his official bond as such Comptroller, he shall file, during his term of office as fiscal officer, a bond in favor of both parties in such penal sum as may

~~be determined by the Board, conditioned upon his faithful~~
performance of the trust imposed upon him. He shall at all times
be deemed an employee of the City.

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~~The fiscal officer shall deposit all monies received by~~
him on account of the Board in a special account in a bank or
trust company in the City of Binghamton designated as an official
depository by the Board. Expenditures shall be made only upon
order and direction of the Board in accordance with the provisions
of Section 119-o of the General Municipal Law.

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In the event that the Village of Johnson City becomes a
city and establishes the office of Comptroller, or in the event
that the Village of Johnson City, while remaining a village,
establishes the office of Comptroller, the office of fiscal
officer shall change from year to year, and shall alternate
between the Comptroller of the City of Binghamton and the
Comptroller of the City or Village of Johnson City.

16. The computation of the proportions of ownership and of
allocation of operating costs is based upon the following prospec-
tive maximum use of the sewage treatment plant capacity, based
upon average dry weather flow:

Binghamton: Ten million (10,000,000) gallons per day

Johnson City: Eight million two hundred fifty thousand
(8,250,000) gallons per day

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Each party shall have the right to its prospective maximum
use of the sewage treatment plant as listed above. No party
shall have the right to use more than such maximum without the
approval by a three-fourths vote of the voting strength of the

governing body of the other party.

~~Each of the parties shall have the right to collect revenues from outside users in such manner as such party may determine, and the revenues collected by such party shall inure to the benefit of such party.~~

All sewage pumped by the terminal pumping station serving the Village shall be allocated to the prospective maximum use of the Village. All sewage pumped by the existing raw sewage pumping station at the sewage treatment plant shall be allocated to the prospective maximum use of the City.

17. ~~The Board shall operate and maintain the facilities of the joint sewage project.~~ The Board shall consist of six members, three appointed by the Mayor of the City of Binghamton, and three appointed by the Mayor of the Village of Johnson City. Members shall be residents of the municipality by which they are appointed. On or before the effective date of this agreement, the mayor of each party shall appoint one member for a three-year term, one member for a two-year term, and one member for a one-year term. Upon the expiration of the term of office of each such member, the mayor of the appointing municipality shall appoint a successor for a three-year term, and all successive appointments shall be for three-year terms. Vacancies in the office of member of the Board shall be filled by appointment by the mayor of the appointing municipality, and at all times except during the period of such vacancies there shall be three members of the Board serving by the appointment of each of the municipalities through its mayor.

Members of the Board shall serve without compensation, except that ordinary and necessary expenses incurred in the performance

of their duties shall be a proper expense and may be reimbursed by the Board. Such reimbursement shall be subject to the same budgetary and other controls as any other expenditure. ~~Four~~ members shall constitute a quorum for the transaction of business at any meeting.

~~The Board shall elect one of its members as Chairman. The Board shall appoint such employees as it determines are necessary to adequately operate and maintain the facilities of the joint sewage project, and shall establish their salaries. All monies received or collected by the Board or its employees shall be paid over to the fiscal officer within ten days after they are received. Such monies shall be credited to the Board, and paid out only upon the order of the Board.~~

The Board shall be charged with the following duties:

A. To fix and collect the annual costs as provided in sections 11, 12 and 14.

B. To keep all necessary records, including records of receipts and disbursements and records of its proceedings. For this purpose the Board shall retain a secretary who shall not be a member of the Board.

C. To make necessary purchases and execute necessary contracts.

D. To take possession of and retain in its custody the real and personal property comprising the joint sewage project, and to keep the same in good order and repair.

E. To make and publish rules and regulations

for the operation, preservation, protection and care of the property and facilities of the joint sewage project.

F. To reject any discharges of sewage or industrial wastes which, in its opinion, would have deleterious effect upon the facilities of the joint sewage project or the operation of such facilities. However, nothing in this agreement shall limit the rights of the parties to restrict the discharge of sewage or wastes into their respective sewer systems.

G. On or before February 1st of each year to file with each of the parties a report of its proceedings for the previous year.

H. To maintain general liability, fire and casualty insurance, naming each party as an additional insured. The limits of coverage shall be at least as follows:

General liability (personal injury): \$100,000/\$300,000

Automobile liability (personal injury): \$500,000/\$1,000,000

Automobile liability (property damage): \$25,000

Fire insurance (on facilities when improvements are complete): \$2,000,000

I. To retain consulting engineers, but the contract of retainer shall first be approved by each party by at least a majority vote of the voting strength of its governing body.

J. To appoint and dismiss employees within its jurisdiction.

K. To exercise such other powers and duties as may be delegated and assigned by the concurrent action of the parties.

A minimum of four affirmative votes shall be required to decide any questions considered by the Board.

18. The parties shall retain the following powers:

~~A. To acquire, lease or sell real estate.~~

~~B. To accept gifts, grants and bequests.~~

~~C. To apply for and receive state or federal aid, except that the Village shall have the right to apply for and receive state or federal aid in connection with the improvements described in sections 2 and 3.~~

D. Such other powers as are not specifically delegated to the Board.

19. Employees of the Board shall be designated as employees of the Board, and not as employees of the City of Binghamton or of the Village of Johnson City.

All persons employed at the Binghamton sewage disposal plant at the effective date of this agreement shall continue such employment and become employees of the Board; they shall retain the same salaries or wages, fringe benefits and employment rights as they possess on the effective date of this agreement.

Where state law, local laws, ordinances, resolutions or regulations, or rules, regulations or resolutions of the Board require any employee to fulfill a residency requirement, such requirement shall be deemed to be fulfilled if such employee is

or becomes, as may be required, a resident of either party. Such residency requirement shall not be violated if an employee changes his residence at any time from one party to the other. Residents of either party shall have equal opportunity to be hired or retained by the Board.

The City shall amend its Charter and adopt any necessary supplemental legislation to permit persons otherwise qualified who reside in the Village of Johnson City rather than in the City of Binghamton to participate in civil service examinations for appointment to or employment by the Board. The Village shall make any necessary amendments to its local laws, ordinances, resolutions, and regulations, to permit persons otherwise qualified who reside in the City of Binghamton rather than in the Village of Johnson City to participate in civil service examinations for appointment to or employment by the Board.

~~The Binghamton Civil Service Commission shall be the administrative body for the enforcement of the Civil Service Law of the State of New York and the rules of the Civil Service of the City of Binghamton, which shall apply to the employees of the Board.~~

The following positions which are presently connected with the operation of the Binghamton sewage treatment plant shall, upon the effective date of this agreement, become positions supervised by the Board, and the holders of such positions at the effective date of this agreement shall become employees of the Board, in accordance with the provisions of this agreement:

<u>Job Title</u>	<u>Salary</u>
Chief Sewage Plant Operator	\$ 6,850.00

Senior Sewage Plant Operator	5,520.00
Sewage Plant Operator (1 @ \$5,180.00; 5 @ \$5,045.00; 1 @ \$4,934.00; 1 @ \$4,770.00; 1 @ \$4,670.00)	44,779.00
Mechanic	5,045.00
Laborers (1 @ \$16.70; 2 @ \$16.00; 1 @ \$15.46; 3 @ \$14.80)	28,535.00
Motor Equipment Operator, Light	4,888.00
Pump Station Operator	5,294.00

20. Unless otherwise provided herein, whenever the agreement of both parties is required herein, such agreement shall be construed to mean at least a three-fourths affirmative vote of the voting strength of the governing body of each of the parties.

21. During the term of this agreement, all sewage from each of the parties shall be pumped into the facilities of the joint sewage project.

The parties recognize that it may be advantageous to expand the facilities of the joint sewage project beyond the maximum use contemplated by this agreement. In the event such expansion appears advantageous, to service a new community or to service additional capacity of one of the parties, such expansion shall require the agreement of both parties, and shall be based upon a report prepared by an engineer acceptable to both parties.

22. This agreement may be modified or amended by an instrument in writing, duly executed and acknowledged by the authorized representative of each party, after approval by a three-fourths vote of the voting strength of the governing body of each party.

23. Copies of the report entitled "Joint Disposal of Sewage for the Village of Johnson City and the City of Binghamton", made by Clinton Bogert Associates, dated June, 1964, and supplements of said report dated July 22, 1964, and September 29, 1964, shall

be filed in the offices of the Clerk of the City of Binghamton, the Clerk of the Village of Johnson City, and the Board.

24. This agreement shall be executed by the mayor of each party, and the seal of each party shall be affixed and attested by the clerk of each party, after adoption of the agreement by a three-fourths vote of the voting strength of the governing body of each party.

This agreement shall become effective thirty days after the date of execution.

IN WITNESS WHEREOF, the said City of Binghamton has caused its corporate seal to be affixed hereunto, and these presents to be signed by its Mayor, and to be attested by its City Clerk, both duly authorized so to do, and the said Village of Johnson City has caused its corporate seal to be affixed hereunto and these presents to be signed by its Mayor, and to be attested by its Village Clerk, both duly authorized so to do, the day and year first above mentioned.

SEAL

CITY OF BINGHAMTON

Attest:

By JOHN J. BURNS
Mayor

WALTER V. IRVING
City Clerk

SEAL

VILLAGE OF JOHNSON CITY

Attest:

By JAMES W. MC CABE
Mayor

FRANK J. SWEET
Village Clerk

STATE OF NEW YORK)
)ss.:
COUNTY OF BROOME)

On the 14th day of July, 1965, before me, the subscriber, personally appeared JOHN J. BURNS, who being by me duly sworn, deposes and says: That he is the Mayor of the City of Binghamton, the municipal corporation named in and which executed the foregoing instrument; that he knows the seal of said City, and that the seal affixed to said instrument is such corporate seal and that it was so affixed by order of the Council of the said City, and that he signed his name thereto by like order.

And on the same day, before me personally appeared WALTER V. IRVING, City Clerk of said corporation, who, being by me duly sworn, did depose and say that he is the City Clerk of the City of Binghamton, that he knows the seal of said City and that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of said Council; that the said John J. Burns is Mayor of said City and that the signature on said instrument is the signature of said John J. Burns as Mayor.

JEAN O'NEIL

Notary Public

STATE OF NEW YORK)
) ss.:
COUNTY OF BROOME)

On the 14th day of July, 1965, before me, the subscriber, personally appeared JAMES W. MC CABE, who, being by me duly sworn, deposes and says: That he is the Mayor of the Village of Johnson City, the municipal corporation named in and which executed the foregoing instrument; that he knows the seal of said Village, and that the seal affixed to said instrument is such corporate seal, and that it was so affixed by order of the Board of Trustees of said Village, and that he signed his name thereto by like order.

And on the same day before me personally appeared FRANK J. SWEET, Village Clerk of said corporation, who, being by me duly sworn, did depose and say that he is the Village Clerk of the Village of Johnson City, that he knows the seal of said Village and that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of said Board of Trustees; that the said James W. McCabe is Mayor of said Village; and that the signature on said instrument is the signature of said James W. McCabe as Mayor.

DONALD E. EGAN, JR.
Notary Public