

RESOLUTION R-03-05

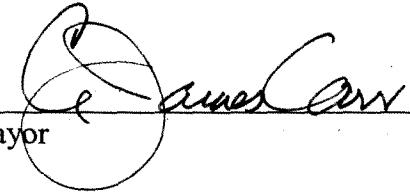
**A RESOLUTION AUTHORIZING
THE EXECUTION OF AN INTERGOVERNMENTAL AGREEMENT
BETWEEN THE WHEATON SANITARY DISTRICT AND THE CITY OF WHEATON
FOR SANITARY SEWER SYSTEM STUDIES**

WHEREAS, the Wheaton Sanitary District and the City of Wheaton are units of Illinois government authorized to enter into intergovernmental agreements pursuant to the Illinois Constitution and the Illinois Intergovernmental Cooperation Act; and

WHEREAS, the District and City deem it in the best interests of the public health and welfare to enter into an intergovernmental agreement to share in the costs to contract with outside engineers for a Wet Weather Facility Plan; a Capacity, Management, Operations, Maintenance Audit and Plan; and a Sanitary Sewer Overflow Response Plan.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of Wheaton, Illinois, that the Mayor is authorized to execute an intergovernmental agreement between the Wheaton Sanitary District and the City of Wheaton for sanitary sewer system studies.

ADOPTED this 18th day of January, 2005.



Mayor

ATTEST:

Eunice M. Connolly
City Clerk

Ayes:

Roll Call Vote
Councilman Mouhelis
Councilman Bolds
Councilwoman Corry
Councilman Johnson
Mayor Carr
Councilman Mork

Nays: None

Absent: Councilwoman Johnson

Motion Carried Unanimously

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INTERGOVERNMENTAL AGREEMENT BETWEEN THE WHEATON SANITARY DISTRICT AND THE CITY OF WHEATON FOR SANITARY SEWER SYSTEM STUDIES

WHEREAS, the Wheaton Sanitary District (hereinafter "**District**") and the City of Wheaton (hereinafter "**City**") are units of Illinois government authorized to enter into intergovernmental agreements pursuant to the Illinois Constitution and the Illinois Intergovernmental Cooperation Act; and

WHEREAS, the **District** and **City** deem it in the best interests of the public health and welfare to enter into an intergovernmental agreement to share in the costs to contract with outside engineers for a Wet Weather Facility Plan; a Capacity, Management, Operations, Maintenance Audit and Plan; and a Sanitary Sewer Overflow Response Plan (sometimes hereinafter referred to as the "**Project**"); and

WHEREAS, the **District** has previously entered into an engineering services agreement ("**Original Agreement**") with the consulting engineering firm of Black & Veatch ("**Engineer**") to prepare the first phases of a Sewer System Evaluation Study ("**Sewer Evaluation**") of the sanitary sewer system tributary to the **District**'s waste water treatment plant for the purpose of the **District** qualifying for low interest loans to fund future upgrades of the treatment plant to meet expected nutrient water quality standards and other waste water treatment improvements; and

WHEREAS, the **District** and the **City** in May of 2004 jointly completed a flow monitoring program to obtain sewer flows and rainfall data to assist in the **Sewer Evaluation**; and

WHEREAS, the **District** has incurred an expense of \$15,000 in engineering services and the **City** has incurred an estimated expense of \$31,500 in labor and equipment for the flow monitoring work.

NOW THEREFORE, in consideration of the foregoing preambles and the covenants recited herein, the **District** and the **City** agree this 19th day of January, 2005, as follows:

1. The **District** will execute an engineering services agreement amendment with the **Engineer** incorporating the additional scope of work required for preparation of a Capacity, Management, Operations, and Maintenance (CMOM) Audit and Plan; and a Sanitary Sewer Overflow (SSO) Response Plan at a maximum, not to exceed, amount of \$509,000, which agreement is attached hereto as Exhibit A ("**Amendment**").
2. The **District** and the **City** will each pay fifty percent (50%) of the total cost of the **Project**, including credits for previous flow monitoring completed under the prior agreement.
3. In the fiscal year ending April 30, 2005, the **District** will pay a maximum of \$95,000 and the **City** will pay a maximum of \$200,000, funds which have been previously appropriated for this work. In the fiscal year ending April 30, 2006, the **District** will pay

a maximum of \$167,750 and the **City** will pay a maximum of \$46,250, subject to appropriation of such funds in the next fiscal year budget.

4. The **District** will pay all payments required under the engineering services agreement as they are submitted by the **Engineer**.
5. The **District** will invoice the **City** monthly for its proportionate share of the engineering services paid by the **District**. At the completion of the project, the **District** will issue a final invoice adjusting payments by the **City** to equal fifty percent (50%) of the actual final cost. All invoices issued to the **City** will be paid within thirty (30) days of receipt.
6. The **District** shall be the lead agency for purposes of the contract with the **Engineer** and shall take responsibilities for coordinating with the **City** and the **Engineer** for any and all project meetings, as described and set forth in the **Amendment** between the **District** and **Engineer**.
7. The **District** shall require the **Engineer** as part of the **Amendment** to provide that the **City** is a direct third party beneficiary of the engineering services agreement amendment between the **District** and the **Engineer**. After approval of the **Amendment** by the **District** and **City** no further amendment of the engineering services agreement shall be approved by the **District** without the express consent of the Corporate Authorities of the **City**. The **Engineer** shall be required under the **Amendment** to distribute a set of the reports generated in conformance with the engineering services agreement directly to the **City**.
8. The **District** and the **City** shall each identify by name a project representative who will be responsible for communications between the **City** and **District** regarding and during the term of the **Project**.
9. The **District** shall further cause the **Original Agreement** and **Amendment** to be amended to reflect the following changes:
 - A. An umbrella provision should be added to Article 8 of the **Original Agreement** which shall provide :

“ Commercial Umbrella Insurance with a combined single limit of 2,000,000 for each occurrence and in aggregate.”
 - B. The sentence in Article 8 of the **Original Agreement**: “Owner shall require its insurers to waive all rights of subrogation against the engineer for claims covered any property insurance that the Owner may carry” shall be stricken in its entirety.

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10. This Agreement may only be amended by mutual consent of the **District** and **City's** Corporate Authorities. It constitutes the entire agreement between the parties and all prior negotiations are incorporated herein.
11. Upon execution by the **District** and proofing by **City** staff to verify that the Amendment comports with the requirements of this Agreement the Amendment shall be incorporated into this Agreement as if fully set forth as Group Exhibit A.

In witness whereof, the parties hereunder have set their hands and seals the day and year first written above.

Wheaton Sanitary District

Its President

Attest:

Secretary

City of Wheaton

Its Mayor

Attest:

Eric M. Cenadaya
City Clerk