

SECOND AMENDMENT TO COOPERATIVE AGREEMENT FOR RECIPROCAL SEWER SERVICE

This Second Amendment to a Cooperative Agreement for Reciprocal Sewer Service (“Agreement”) is entered into this ____ day of _____, 2017 (the “Effective Date”), by and between Kansas City, Missouri, a constitutionally chartered municipal corporation, through its Director of Water Services (“KCMO”) and the City of Lee’s Summit, Missouri, a constitutional chartered municipal corporation (“Lee’s Summit”).

RECITALS AND DEFINED TERMS

WHEREAS, Lee’s Summit owns and operates a sewer interceptor which it constructed within the Boggs Hollow Watershed in 1976 (“Boggs Hollow Interceptor”) , and the Boggs Hollow Interceptor lies within the corporate limits of both KCMO and Lee’s Summit, with one existing main connection in Lee’s Summit and five existing main connections in KCMO; and

WHEREAS, Lee’s Summit and KCMO entered into a Cooperative Agreement for Reciprocal Sewer Service on September 1, 1966 and amended that agreement on November 1, 1976; and

WHEREAS, Lee’s Summit and KCMO entered into a separate Cooperative Agreement on February 19, 2004, pertaining to sewer services to the Boggs Hollow Watershed; and

WHEREAS, the Boggs Hollow Interceptor was constructed by Lee’s Summit in 1976 in two phases with federal funds and sized for the Boggs Hollow Watershed, which also lies within the corporate limits of both KCMO and Lee’s Summit, with one existing main connection in Lee’s Summit and five existing main connections in KCMO; and

WHEREAS, the Boggs Hollow Interceptor is connected to the 90-inch Little Blue Interceptor Sewer through a metering station on a 48-inch trunk sewer at Station 125+25 of Contract S-4 (“Boggs Hollow Metering Station”) within KCMO limits, and the Boggs Hollow Metering Station is owned and maintained by the Little Blue Valley Sewer District (LBVSD); and

WHEREAS, the total charges for sewer service for flows from the Boggs Hollow Interceptor into the Little Blue Interceptor Sewer are being determined by the LBVSD and paid by Lee’s Summit, and KCMO is paying to Lee’s Summit for each customer within the Kansas City portion of the Boggs Hollow Watershed a monthly sewer service charge for an unmetered connection for non-resident users; and

WHEREAS, Lee’s Summit and KCMO desire to clarify their rights and responsibilities with respect to the Boggs Hollow Interceptor; and

WHEREAS, Lee's Summit and KCMO desire to amend again the Cooperative Agreement for Reciprocal Sewer Service of 1966, as modified and amended in 1976 and 2004, in order to clarify and redefine their rights and responsibilities with respect to the Boggs Hollow Interceptor, to provide for the construction of a new metering station by Lee's Summit, and to provide a basis by which KCMO will assume responsibility for paying LBVSD sewer charges for sewer flow through the Boggs Hollow Interceptor while receiving payment from Lee's Summit for its share of LBVSD charges attributable to Lee's Summit flow.

NOW, THEREFORE, for and in consideration of the mutual covenants, agreements, and conditions contained herein, it is agreed by and between KCMO and Lee's Summit as follows:

1. This is a cooperative Agreement authorized by Section 70.220, RSMo. et. seq. (2010). In accordance with Section 70.300, RSMo., a copy of this Agreement will be filed in the Office of the Secretary of State and in the Offices of the Recorder of Deeds of Jackson County. This Agreement shall be governed by and construed according to the laws of the State of Missouri.

2. It is the intent of the parties that this Second Amendment to the Cooperative Agreement for Reciprocal Sewer Service of 1966 will supersede and replace in its entirety all provisions of the separate Cooperative Agreement of February 19, 2004, pertaining to sewer services to the Boggs Hollow Watershed. As of the Effective Date of this Amendment, the separate Cooperative Agreement of February 19, 2004 is null and void and of no further force or effect.

3. Paragraph 7 of the Cooperative Agreement for Reciprocal Sewer Services of 1966 as amended 1976, is further amended by adding a new Subsection (e) as follows:

(e). Within two years from the Effective Date of this Amendment Lee's Summit will construct and install a permanent flow metering station and related appurtenances ("Lee's Summit Metering Station") on the Boggs Hollow Interceptor in the vicinity of its city limits with KCMO in or around Manhole BH-023 A map depicting, among other things, the general location of the Lee's Summit Metering Station is attached hereto and incorporated herein as "Exhibit A." Lee's Summit will be solely responsible for all costs associated with the design, construction, operation and maintenance of the Lee's Summit Metering Station. Lee's Summit agrees to construct the Lee's Summit Metering Station in accordance with standard engineering practice so that the Lee's Summit Metering Station is capable of determining flows from the Lee's Summit portion of the Boggs Hollow Interceptor for the purpose of allocating costs between KCMO and Lee's Summit.

(1) If the Lee's Summit Metering Station is to be located in a manhole upstream of its city limits with KCMO, within 90 days from the Effective Date of this Amendment, Lee's Summit agrees to install temporary meters at the locations of the proposed Lee's

Summit Metering Station and Manhole BH-023 in accordance with standards engineering practice and report flows to KCMO for at least two years to establish a measure of the inflow and infiltration into this segment of main. Lee's Summit shall update this data by metering an additional 12 months of flows every five years.

(2) Lee's Summit will submit plans and specifications for the Lee's Summit Metering Station to KCMO for review before construction. Lee's Summit will provide notice to KCMO after completion of the Lee's Summit Metering Station. KCMO will inspect the Metering Station in accordance with its ordinances and provide its notice of acceptance of the Lee's Summit Metering Station to Lee's Summit. KCMO will be granted the right of reasonable access to the Lee's Summit metering station to verify the accuracy of the meter and its reads.

(3) After completion and startup of the Lee's Summit Metering Station and acceptance of same by KCMO, KCMO and Lee's Summit will effectuate transfer of the payment responsibility for the LBVSD charges for flows recorded through the Boggs Hollow Interceptor from Lee's Summit to KCMO. Upon transfer of the LBVSD billing and charges for the Boggs Hollow Interceptor to KCMO, the charges will be apportioned between KCMO and Lee's Summit in accordance with each city's flow contribution to the Boggs Hollow Interceptor as provided for in subsection '(4)' below. Lee's Summit agrees to pay KCMO the approved charge allocation for sewer service within 30 days of receipt of the invoice. KCMO will submit payment of all charges to the LBVSD in accordance with LBVSD billing requirements.

(4)The LBVSD charges for the Boggs Hollow Interceptor will be allocated between KCMO and Lee's Summit in the following manner:

Step 1: Calculate LBVSD annual charges for the connection to the Boggs Hollow Interceptor by apportioning the total charges assessed to KCMO by LBVSD between the Boggs Hollow Interceptor and other KCMO connections using normalized flow percentages at all KCMO connections in accordance with LBVSD procedures.

Step 2: Apportion all other charges for the Boggs Hollow Interceptor connection between KCMO and Lee's Summit based on the percentage of actual flow to the interceptor, using the metered flow data obtained from the Lee's Summit and Boggs Hollow Metering Stations each quarter consistent with the LBVSD fiscal year. If the Lee's Summit Metering Station is located in a manhole upstream of its city limits with KCMO, LSMO agrees to also pay KCMO for the inflow and infiltration into the segment of main between the metering station and city

limits as determined from the temporary flow monitoring data. The analysis of flow data and the allocation of costs will be in accordance with standard engineering standards and accounting practices. Each party agrees to promptly make available to the other party all supporting documentation within their control necessary for each cost allocation determination.

(5) . Lee's Summit agrees to transfer ownership to KCMO of that portion of the Boggs Hollow Interceptor within KCMO limits. The parties agree that a Quit Claim Deed and Assignment of Sanitary Sewer Easements, Rights of Way and Infrastructure, as well as a Bill of Sale, in substantially the same form as attached hereto as Exhibit B and Exhibit C, will be suitable to acknowledge such transfer. Lee's Summit will forward the executed Affidavit of Conveyance after receipt of a counterpart of this Agreement executed on behalf of KCMO. From and after the date of such transfer, KCMO is responsible for all maintenance and repair of the portion of the Boggs Hollow Interceptor located within KCMO's city limits, and Lee's Summit is responsible for all maintenance and repair of the portion of the Boggs Hollow Interceptor located within Lee's Summit's city limits. Each party agrees that from and after the date of transfer each respective party shall assume all obligations, responsibilities, and risk of loss associated with their respective portion of the Boggs Hollow Interceptor.

(6) KCMO and Lee's Summit agree to maintain adequate capacity in their respective portions of the Boggs Hollow Interceptor within their city limits and the Boggs Hollow watershed for effective operation of the Interceptor as a whole. Subject to approval by the party's respective counsel and subject to appropriation, each party shall undertake improvements to its portion of the Boggs Hollow Interceptor as needed to maintain adequate capacity in accordance with standard engineering practice and regulatory requirements and reasonably anticipated development.

(7) KCMO and Lee's Summit agree to be responsible for their own inflow and infiltration mitigation for the Boggs Hollow Interceptor within their respective city limits. The parties further agree to report any overflows from the Boggs Hollow interceptor which occur within their city limits to regulatory agencies as required by law and to the other party to this Agreement.

(8) Lee's Summit may, in its discretion, construct additional sewer within KCMO in order to connect to a manhole on the Boggs Hollow Interceptor in the general vicinity as shown on Exhibit A for flows from reasonably anticipated development which originate within the limits of the Boggs Hollow Watershed as defined by Exhibit A. In the event Lee's Summit decides to make this connection, all of the provisions of this Agreement, including, without limitation, those provisions relating to the construction of the

metering structure, the measurement and billing for flow through the connection, shall apply. The additional sewer within KCMO shall be designed and constructed in accordance with KCMO standards and sewer extension procedures.

(9) This Amendment provides the sole basis for calculating charges to Lee's Summit for sanitary sewer flow through the Boggs Hollow Interceptor. Lee's Summit's sole responsibility for sanitary sewer related rates and charges for sewer flow through the Boggs Hollow Interceptor is limited to its share of the LBVSD charges as described in this Agreement plus charges for inflow and infiltration in the event the Lee's Summit Metering Station is located in a manhole upstream of its city limits with KCMO.

(10). Neither party may limit the amount of sewer flow deposited through the other party's connections into the Boggs Hollow Interceptor as long as the flow originates within the limits of the Boggs Hollow Watershed designated in the attached Exhibit A, subject to the requirements of Subsections (e)(6) and (e)(7) above.

4. All other sections of the Cooperative Agreement for Reciprocal Sewer Service of 1996 as amended 1976 shall remain in full force and effect.

IN WITNESS WHEREOF, this parties have executed this Amendment the date first above written.

LEE'S SUMMIT, MISSOURI

Mayor Randall L. Rhoads

APPROVED AS TO FORM:

Jackie McCormick Heanue
Chief Counsel of Management & Operations/Deputy City Attorney

KANSAS CITY, MISSOURI

Terry Leeds, P.E. Director
Water Services Department

APPROVED AS TO FORM:

Assistant City Attorney